UNITED
NATIONS

A

General Assembly

Distr.
GENERAL

A/45/657
19 October 1990
ENGLISH
ORIGINAL: ENGLISH/RUSSIAN

Forty-fifth session
Agenda item 69, 79, 105 and 139

REVIEW OF THE IMPLEMENTATION OF THE DECLARATION ON THE STRENGTHENING OF INTERNATIONAL SECURITY

DEVELOPMENT AND INTERNATIONAL ECONOMIC CO-OPERATION

INTERNATIONAL COVENANTS ON HUMAN RIGHTS

PEACEFUL SETTLEMENT OF DISPUTES BETWEEN STATES

Letter dated 19 October 1990 from the Permanent Representatives of Poland and the Ukrainian Soviet Socialist Republic to the United Nations addressed to the Secretary-General

We have the honour to transmit to you the text of the Declaration on Principles and Basic Directions of the Development of Ukrainian-Polish Co-operation signed by Mr. Anatoli M. Zlenko, Minister for Foreign Affairs of the Ukrainian Soviet Socialist Republic, and Prof. Krzysztof Skubiszewski, Minister for Foreign Affairs of the Republic of Poland, at Kiev on 14 October 1990 (see annex).

We request you to circulate the text of the present letter and its annex as an official document of the General Assembly, under agenda items 69, 79, 105 and 139.

(Signed) Stanislaw PAWLAK
Ambassador
Permanent Representative
of the Republic of Poland

(Signed) Guennadi I. OUDOVENKO
Ambassador
Permanent Representative
of the Ukrainian Soviet
Socialist Republic

best copy available

ANNEX

Declaration on Principles and Basic Directions of the Development of Ukrainian-Polish Co-operation

1. The Ukrainian SSR and the Republic of Poland express their desire for the maintenance between them, as sovereign States, of good-neighbourly relations, the strengthening and development of mutually advantageous co-operation serving their national interests and not directed against any third party. These relations are based on the principles of the United Nations Charter, the Helsinki Final Act and other documents adopted by the Conference on Security and Co-operation in Europe, including the principles of sovereign equality, the inviolability of frontiers, territorial integrity, non-interference in internal affairs, and the peaceful settlement of disputes. Both States proceed from the principle that the overall development of peaceful, good-neighbourly Ukrainian-Polish relations is a concrete contribution to the strengthening of regional co-operation and the construction of a common European home.

2. The Ukrainian SSR and the Republic of Poland reaffirm that in accordance with the principle of national self-determination, the Ukrainian and Polish peoples have an inalienable right to determine in full freedom their internal and external political status without outside interference and to realize their political, economic, social and cultural development.

3. The Ukrainian SSR and the Republic of Poland have no territorial claims against each other and will not raise such claims in the future. The Parties regard the existing State frontier between the Ukrainian SSR and the Republic of Poland fixed in the Treaty between the USSR and Poland concerning the Soviet-Polish State frontier of 16 August 1945 and corrected in the Agreement between the USSR and Poland concerning the Exchange of Sectors of Their State Territories of 15 February 1951 as inviolable in our time and in the future and consider them an important element of peace and co-operation in Europe.

4. The Parties exchanged views concerning the future establishment of diplomatic, consular and trade missions. As a first step in this direction, the Parties have agreed to establish consular relations and to exchange consulates. In the near future the Parties will continue consultations concerning the establishment of full-scale diplomatic relations.

5. The Ukrainian SSR and the Republic of Poland intend to develop mutually beneficial co-operation in the political, economic, ecological, scientific and technological, information, cultural, humanitarian and other spheres. In order to strengthen mutual understanding, good-neighbourliness and friendship between the Ukrainian and Polish peoples, the Parties will provide their populations with objective information on the processes taking place in the two States.

6. Recognizing the necessity to revitalize their trade, economic, industrial, scientific and technological co-operation on the basis of mutual benefit, the Ukrainian SSR and the Republic of Poland have agreed to discuss these questions at

the intergovernmental level. The Parties will facilitate direct co-operation between Ukrainian and Polish enterprises.

7. The Ukrainian SSR and the Republic of Poland reaffirmed their respect for human rights and fundamental freedoms, including freedom of thought, conscience and political conviction for all regardless of race, nationality, language, sex, property status and religious belief. They emphasized that respect for human rights and fundamental freedoms is an important factor of peace, security, mutual understanding and co-operation in a free, democratic Europe.

8. In this connection the Parties have advocated consistent respect for and the safeguarding of rights, and improvement in the status of national minorities - the Ukrainian minority in Poland and the Polish minority in the Ukraine - including the guarantee of opportunities for them fully to satisfy their cultural and religious needs and their requirements in respect of teaching in their own language, and creation of the appropriate conditions for maintaining the necessary contacts between the Ukraine and Poland. The Parties understand that these minorities, while preserving and developing their national distinctiveness, will play a significant role in bringing together the Ukrainian and Polish peoples. The Parties proceed from the assumption that constructive co-operation in the field of the human rights of national minorities is an important contribution to the establishment of a common European humanitarian space.

9. The Ukrainian SSR and the Republic of Poland will broadly develop cultural, scientific and humanitarian co-operation, which is of particular importance for the mutual comprehension and understanding of the two fraternal peoples. The Parties will pay due attention to protecting Polish historical and cultural monuments in the Ukraine and Ukrainian historical and cultural monuments in Poland. In the interests of exchanging information on scientific and cultural achievements, the Ukrainian SSR and the Republic of Poland will consider questions relating to the future establishment of information and cultural centres, namely, a Ukrainian centre in Warsaw and a Polish centre in Kiev.

10. The Ukrainian SSR and the Republic of Poland will foster Ukrainian-Polish links in every way, recognizing the ethnic and cultural closeness of the Ukrainian and Polish peoples and endeavouring to preserve the positive legacy of their relations over many centuries. To that end, the Parties will work towards establishing the conditions necessary for the development of direct contacts between non-governmental and political organizations, State institutions and local authorities, cultural and scientific centres, creative artists' associations and trade unions and other human contacts. Bearing in mind the role of young people in forming relations based on mutual understanding and good-neighbourliness between the peoples of the two States, the Parties have agreed to prepare an agreement on co-operation in the field of youth exchanges. In order to activate cross-border co-operation the Parties will take necessary steps to ensure the proper functioning of the border checkpoints and to simplify the procedure for border crossing.

11. The Ukrainian SSR and the Republic of Poland will co-operate closely in the field of environmental protection and the rational use of natural resources in order to ensure reciprocal ecological security and to prevent transboundary

READEX

pollution. With that aim in view, the Parties will keep each other informed and will hold periodic consultations.

12. The Ukrainian SSR and the Republic of Poland welcome the strengthening of trust in Europe and declare their support for the processes leading to diminished military confrontation, arms reduction and the final elimination of the risk of war and the threat of the use of force from inter-State relations on the continent.

13. The Ukrainian SSR has given notification of the steps being taken to implement its intention to participate directly and on an equal footing in the all-European process and in European structures. The Republic of Poland has declared its readiness to contribute to a positive solution of this question.

14. The Parties have agreed to hold consultations between the Ministries of Foreign Affairs of the Ukrainian SSR and the Republic of Poland on all issues relating to their bilateral relations, co-operation in the international arena, particularly in the all-European process and within the framework of the United Nations and other international organizations, and also on international issues which are of concern to the two States.

Minister for Foreign Affairs of the
Ukrainian Soviet Socialist Republic

A. M. Zlenko

Minister for Foreign Affairs
of the Republic of Poland

Krzyosztof Skubiszewski

UNITED
NATIONS

A S

General Assembly Security Council

Distr.
GENERAL

A/45/658
S/21898
23 October 1990

ORIGINAL: ENGLISH

GENERAL ASSEMBLY
Forty-fifth session
Agenda item 43
QUESTION OF CYPRUS

SECURITY COUNCIL
Forty-fifth year

Letter dated 19 October 1990 from the Permanent Representative of Cyprus to the United Nations addressed to the Secretary-General

I have the honour to bring to your attention that, on several occasions in the recent past, the Government of Turkey has continued the unacceptable practice of circulating documents emanating from the illegal Turkish Cypriot state created in the occupied part of Cyprus by Turkey.

The contents of these documents promote, inter alia, the concept of "two peoples in Cyprus, having a separate right to self-determination", which as you have clearly stated in your report to the Security Council dated 8 March 1990 (S/21183), "posed more than a semantic problem" and, as a result, "we faced an impasse of a substantive kind" at the last high level meeting in New York earlier this year.

These documents, circulated by Turkey, also attempt to cast doubt on the legitimacy of the Government of the Republic of Cyprus citing certain "opinions" of legal experts.

I wish to point out that the Minister for Foreign Affairs of the Republic of Cyprus, Mr. George Iacovou, in his statement at the Meeting of the Foreign Ministers of the Non-Aligned Movement on "Peace and the Rule of Law in International Affairs" in the Hague in June 1989, invited Turkey to enter into consultations with the Republic of Cyprus and to conclude a special agreement (compromis) to jointly submit to the International Court of Justice the resort by Turkey to the use of force, the invasion and occupation of part of the Republic of Cyprus, the uprooting of the civilian population, the implantation of tens of thousands of alien settlers, the setting up and recognition by Turkey of the illegal entity in the occupied part of Cyprus and the attempts to further colonize

the town of Varosha. These are judiciable in the International Court of Justice, if Turkey were to accept the jurisdiction of the Court, under Article 36, paragraph (1).

Mr. Iacovou, in his statement, alternatively challenged Turkey to accept the compulsory jurisdiction of the International Court of Justice, under Article 36, paragraph (2), so that the Republic of Cyprus could refer to the Court, together with its case, all other legal issues connected with the Turkish actions described above.

To this day, Turkey has not responded to the challenge of the Minister for Foreign Affairs of the Republic of Cyprus, and the question arises, therefore, why has Turkey not accepted this unique opportunity to prove her position and arguments before an authoritative international law body of indisputable repute.

With regard to the commissioned expert "opinions" cited by Turkey and circulated as United Nations documents, permit me to single out that of Mr. Lauterpacht, who is not new to the affairs of Cyprus.

It is more than obvious that this opinion lacks both impartiality and legal foundation. In fact it is nothing more than an attempt to give a legalistic aura, through the method of retained advocacy, to the Turkish political objectives in respect of the Cyprus problem, rather than to provide impartial legal opinion on the matters to which it relates.

That the "opinion" in question lacks seriousness is evident from the fact that it provides contradictory interpretations to those given by Mr. Lauterpacht in a much earlier opinion to the Cyprus Government on 30 January 1964, when he dealt with some of the same substantive issues. Suffice to juxtapose herebelow some of the most jarring contradictions:

A. Lauterpacht opinion dated 30 January 1964

"To the extent that any action has been taken without the concurrence of the Turkish Cypriot element, this is not because the latter element has been excluded from the Government but because it has withdrawn from it and adopted an attitude of non-cooperation".

Lauterpacht opinion dated 9 March 1990

"Three years later (1963) the Greek Cypriot community used its power to prevent the Turkish Cypriot community from playing its proper role in the Government of Cyprus".

B. Lauterpacht opinion dated 30 January 1964

"But the Government as such has not done anything which is unconstitutional. In due course, perhaps, it may become necessary for the Government of Cyprus to seek amendment of the Constitution and it may

be necessary to do this other than in strict accord with the terms of the present Constitution. But if this step is taken, it will be because it has been forced upon the Government by the failure of the Turkish Cypriot community to cooperate in the implementation of the 1960 Constitution".

Lauterpacht opinion dated 9 March 1990

"Thus, not only did the Greek Cypriot community or, as it claims to be, the Government of the Republic of Cyprus break the Constitution and violate its pledged word in an absolutely fundamental way; it also repudiated a solemnly assumed treaty undertaking which formed an indispensable element in any legal assessment of its position."

C. Lauterpacht opinion dated 30 January 1964

"In any event, Turkey is itself in breach of the Treaty and these breaches have themselves constituted (sic) to the present difficulties in the Island. Accordingly, Turkey is not entitled to invoke an alleged breach by the Republic as a ground for its own intervention".

"In any event, even assuming that a state of affairs has developed which might be regarded as constituting a breach of the Treaty, there is still nothing in the Treaty which warrants a forcible intervention by Turkey".

Lauterpacht opinion dated 9 March 1990

"It need hardly be added that there is nothing in intervention by Turkey in 1974 that changes the legal position. This was a lawful exercise by Turkey of its rights as a guarantor under Article IV of the Treaty of Guarantee".

It is obvious, therefore, that the Turkish Government's position, supported by their lawyer in his commissioned opinion, seeks to manipulate the principles of self-determination as a means of legitimizing, on the one hand, the Turkish transgressions against the Treaty of Guarantee and the Treaty of Establishment, and on the other, the illegal régime established by Turkey in the territory occupied by its forces in Cyprus.

These arguments ignore the fact that self-determination had already been exercised by the people of Cyprus as a whole in accordance with the International Instruments of 1960. Such arguments further ignore the Turkish military invasion and occupation, the forcible movement of large sections of the population, the presence of tens of thousands of illegal settlers and the continuing violation of human rights in the Turkish occupied area. These facts are certainly of major importance as regards the legal situation in that area and of the persons living therein.

In conclusion the documents circulated by the Turkish Government referring to Cyprus should be rejected as misleading and unfounded imcompatible with the United

Nations resolutions on Cyprus and with the principles of international law and as another manifestation of the Turkish policy to seek legal recognition for the illegal régime in the occupied part of Cyprus.

I shall be grateful if this letter could be circulated as a document of the General Assembly under agenda item 43, and of the Security Council.

(Signed) Andreas MAVROMMATIS
Ambassador
Permanent Representative of
Cyprus to the United Nations

UNITED
NATIONS

A

General Assembly

Distr.
GENERAL

A/45/659
22 October 1990

ORIGINAL: ENGLISH

Forty-fifth session
Agenda item 34

POLICIES OF APARTHEID OF THE GOVERNMENT OF SOUTH AFRICA

Letter dated 19 October 1990 from the Permanent Representative of South Africa to the United Nations addressed to the Secretary-General

In continuation of previous communications regarding developments over the past year in South Africa, I have the honour to bring to your attention two documents that have been issued this month.

On 1 October 1990, the Government held a meeting with the various political leaders who hold offices in government executives to consider both the issue of continuing violence and the repeal of the Land Acts of 1913 and 1936. Agreement reached at the meeting cleared the way for the Government to introduce the necessary legislation early during the next session of Parliament, which will convene about the end of January 1991. A communiqué issued by the South African Permanent Mission, containing the text of the State President's statement of 2 October, is enclosed (annex I).

On 18 October 1990, the State President announced that the situation had been reached where, after discussion with local authorities, in particular Dr. Mangosuthu Buthelezi, Chief Minister of Kwazulu, he was able to lift the state of emergency regulations, which still applied in the province of Natal. This means that the state of emergency has been lifted throughout the Republic of South Africa. The text of this statement is also enclosed (annex II).

I trust that you will find this information of interest.

I should be grateful if the present letter and its annexes could be circulated as an official document of the General Assembly under agenda item 34.

(Signed) Jeremy B. SHEARAR
Permanent Representative
Ambassador

ANNEX I

Statement made on 2 October 1990 following the meeting of the Fourth Conference of Political Leaders in South African Governmental Executives

Rural land apartheid is now also on the way out in South Africa. The relevant acts that provide for exclusive settlement for blacks and whites will be scrapped early next year. The Government of South Africa has, however, made concessions to homeland leaders regarding tribal ownership of land that will be phased out over a period.

A meeting between homeland leaders and the Government yesterday also addressed the spiral of violence experienced in the country. The full text of the statement as released by the office of the State President is as follows:

> Yesterday's meeting was the fourth in a series of meetings that were initially called meetings between the State President and leaders of first- and second-tier governmental institutions, but which have developed into what now may be better described as conferences of political leaders who hold offices in governmental executives.
>
> Our first meeting in April took place in the early, and therefore, still somewhat uneasy stages of the normalization of internal political action and debate. New political participants had then just arrived on the scene.
>
> It has been a privilege to experience the growing openness and trust that developed between us during the course of these meetings. Today we were able to discuss sensitive and emotional issues calmly, objectively and in a spirit of seeking common solutions together.
>
> The meeting agreed unanimously with the Government's point of view that the Land Acts of 1913 and 1936 should be repealed as part of a comprehensive programme to remove all racially discriminatory restrictions on the acquisition of land. This should be coupled with immediate non-discriminatory access to sources of financing such as the Landbank and Agricultural Credit.
>
> The meeting strongly urged the Government to make acceptable transitional arrangements with a view to the protection of specific community interests in connection with land-tenure. The meeting also charged its existing Working Group with advising the Government and assisting it in connection with the urgent development of a broad land reform policy, including matters such as financing, training, squatting, maintenance of productivity, types of land ownership, agricultural extension work, nature conservation, etc.
>
> The meeting also received a briefing on ongoing planning on new local government models developed by the Co-ordinating Council of Local Government Affairs. The meeting instructed its Working Group to study local government arrangements in rural and traditional areas in conjunction with the position of tribal authorities.

/...

The meeting called upon all political movements and parties to honour fully their undertakings to refrain from the use of violence, intimidation and destabilization in all spheres and to desist from public statements with an inflammatory effect. The meeting firmly recognized the democratic right of all political organizations to state their point of view freely within the context of the law and to oppose each other peacefully and legally. All leaders present committed themselves anew to the promotion of peace and reconciliation.

A press conference was held after the meeting. President F. W. de Klerk said at the conference that Government had consulted those directly affected by the decision, taken earlier this year, to scrap the Land Acts. (The Acts restrict black ownership of land in South Africa to less than 14 per cent.)

In future, land ownership would be open to all, subject to certain provisions. These provisions were necessary because of deep-rooted customs and sensitivities regarding tribal land. No extra funds were available this year for aspirant landowners but "Government was in the process of preparing next year's budget and priorities would be decided on".

Asked whether people previously dispossessed of land would be given first option to acquire land, Mr. de Klerk said existing titleholders would not be affected by the decision. Constitutional Development Minister, Dr. Gerrit Viljoen, said in reply to the question, that giving such preference would lead to a revolution. The same would happen if land ownership patterns were changed in such a manner in countries like the United States and Australia.

ANNEX II

Statement regarding the state of emergency made on 18 October 1990 by the President of South Africa

When the country-wide state of emergency was lifted in June this year and was re-imposed in Natal only, I stated that the Government and I would constantly review the situation in Natal and that as soon as circumstances permitted, we would attend to lifting the state of emergency in Natal.

Intensive consideration has been given to conditions prevailing in Natal. In this process there has been comprehensive consultation with all the Government's security advisers, following which there were discussions with Dr. Mangosuthu Buthelezi, Chief Minister of Kwazulu, and his advisers. From these discussions and the opinions expressed, it has become clear that there is broad consensus that conditions in Natal have become stabilized to such an extent that the ordinary laws of the land are again sufficient to enable the Government to ensure the safety of the public and maintain public order, despite continuing sporadic violence.

The state of emergency in Natal, which was declared on 8 June 1990, and the emergency measures that consequently came into operation, are therefore now being lifted. A proclamation to this effect will appear in today's Government Gazette.

I would like to take this opportunity to express my thanks and those of the Government to all who have contributed to the stabilization of the situation in Natal, particularly the security forces. I trust that conditions will remain such that it will not become necessary to introduce measures additional to the ordinary laws of the land again.

Should circumstances necessitate this, the Government will, as was recently the case on the Witwatersrand, not hesitate to take appropriate steps to protect the lives and property of all and to maintain good order.

With this announcement the declared state of emergency has now been completely lifted. Looking back on all the violence, the killings, intimidation and destruction that necessitated the imposition of the state of emergency, one thing is abundantly clear: violence and intimidation bring no solutions.

There is only one route to peace and reconciliation in our contry and that is through peaceful negotiation. The door to this is now fully open and I am appealing to all leaders and all South Africans to accept the challenge of this open door.

UNITED
NATIONS

A S

General Assembly Security Council

Distr.
GENERAL

A/45/660
S/21899
23 October 1990
ENGLISH
ORIGINAL: ENGLISH/FRENCH

GENERAL ASSEMBLY
Forty-fifth session
Agenda item 32
THE SITUATION IN CAMBODIA

SECURITY COUNCIL
Forty-fifth year

Letter dated 19 October 1990 from the Permanent Representative of Cambodia to the United Nations addressed to the Secretary-General

I have the honour to enclose herewith, for your information, the text of a statement dated 18 October 1990 of the Ministry of Foreign Affairs of the National Government of Cambodia condemning the Vietnamese invaders for sending in new reinforcements from Viet Nam (see annex).

I should be very grateful if you could have the present letter and its annex circulated as an official document of the General Assembly, under agenda item 32, and of the Security Council.

(Signed) THIOUNN Prasith
Ambassador
Permanent Representative

ANNEX

Statement issued on 18 October 1990 by the Ministry of Foreign Affairs of the National Government of Cambodia condemning the Vietnamese invaders for sending in new reinforcements from Viet Nam

1. The Hanoi authorities have been sending continuously new troop reinforcements to Cambodia.

(a) They have successively sent in new reinforcements in line with their scheme worked out in August 1990, prior to the Jakarta agreement of 10 September 1990.

They have so far dispatched three new divisions to Cambodia. Two thirds of these reinforcements have been sent to the Battambang front, along the railroad track, on highway No. 5, south of Battambang, on highway No. 10 and to the west of Battambang, mainly in an attempt to recapture Pailin. The other one third has been deployed to other fronts as support troops to the Phnom Penh army.

(b) The Vietnamese occupiers and the Hun Sen-Heng Samrin Phnom Penh party have stepped up the forcible conscription of Cambodian civilians into the Phnom Penh army and militia designed to escalate the war in Cambodia.

(c) Since September 1990 the Vietnamese occupiers and the Hun Sen-Heng Samrin Phnom Penh party have stepped up their military operations throughout Cambodia, and in particular in Battambang province, on highway No. 10, west of Battambang, and in the provinces of Kompong Cham and Kompong Thom as well.

2. All these military activities have been carried out by the Vietnamese occupiers and the Phnom Penh party simultaneously with their diplomatic activities aimed at sabotaging the framework document of the five permanent members of the United Nations Security Council, the Jakarta Joint Statement of 10 September 1990 and United Nations Security Council resolution 668 (1990). All these activities point out that the Hanoi authorities are still obstinately refusing to put an end to their invasion and occupation war in Cambodia.

3. The Ministry of Foreign Affairs of the National Government of Cambodia denounces and condemns Viet Nam's escalation of its invasion and occupation war in Cambodia. The entire Cambodian people cannot in any case tolerate such activities on the part of the Vietnamese invaders and the Phnom Penh party. They are determined to unite further with all the forces of the Cambodian National Resistance to check the Vietnamese war of invasion and occupation until the Hanoi authorities accept a comprehensive political settlement in full accord with the framework document of the five permanent members of the United Nations Security Council.

4. The Ministry of Foreign Affairs of the National Government of Cambodia calls upon all friendly countries the world over to take necessary measures to prevent Viet Nam and the Phnom Penh party from sabotaging the peace process for a comprehensive political settlement to the Vietnamese war of invasion and occupation in Cambodia, and to compel them to implement sincerely and unconditionally framework document of the five permanent members of the Security Council, the Jakarta Joint Statement and United Nations Security Council resolution 668 (1990).

UNITED
NATIONS

A S

General Assembly Security Council

Distr.
GENERAL

A/45/661
S/21900
23 October 1990
ENGLISH
ORIGINAL: ENGLISH/FRENCH

GENERAL ASSEMBLY
Forty-fifth session
Agenda item 32
THE SITUATION IN CAMBODIA

SECURITY COUNCIL
Forty-fifth year

Letter dated 23 October 1990 from the Permanent Representative of Cambodia to the United Nations addressed to the Secretary-General

I have the honour to enclose herewith, for your information, the text of a memorandum dated 12 October 1990 of the Cambodian National Resistance entitled "Vietnam's move on the field and on the diplomatic front to prolong its occupation of Cambodia" (see annex).

I should be very grateful if you could have the present letter and its annex circulated as an official document of the General Assembly, under agenda item 32, and of the Security Council.

(Signed) THIOUNN Prasith
Ambassador
Permanent Representative

ANNEX

Memorandum dated 12 October 1990 of the Cambodian National Resistance

Viet Nam's move on the field and on the diplomatic front to prolong its occupation of Cambodia

I. Attempt of Viet Nam and Hun Sen to destroy the document of the five permanent members of the Security Council, the Jakarta Joint Statement and United Nations Security Council resolution 668 (1990)

1. On 11 September, Hun Sen started to reject openly and with arrogance the Jakarta Joint Statement he had signed the day before.

Most recently, in New Delhi, he went so far as to arrogantly accuse H.R.H. Samdech Norodom Sihanouk of hindering the peace process from moving forward. It is a clear attempt to block the election of H.R.H. Samdech Norodom Sihanouk as Chairman of the Supreme National Council (SNC), while, at home and abroad, Hun Sen himself has been stepping up a systematic Vietnamese-guided campaign of disinformation about the Bangkok meeting.

2. As for the Vietnamese, through the voice of their Foreign Minister Nguyen Co Thach at the forty-fifth session of the United Nations General Assembly, they have rejected the framework document of the five permanent members of the United Nations Security Council. They try to renegotiate the very text which all the Cambodian parties, including that of Hun Sen, accepted "in its entirety as the basis for settling the Cambodia conflict" in their Jakarta Joint Statement of 10 September 1990. The very text which has been adopted unanimously by the Security Council on 20 September 1990 and become Council resolution 668 (1990).

3. On the field in Cambodia:

- Viet Nam continues to send fresh troops to Cambodia. From August to early October, it has sent approximately 8,000 troops to Cambodia. More than half of them have been sent to the Battambang front. The others have been sent to villages throughout the country.

- There have been increasing activities to conscript Cambodian civilians into Heng Samrin-Hun Sen's army.

- The Vietnamese troops and those of Heng Samrin-Hun Sen have been trying hard to launch operations aimed at capturing the liberated zones controlled by the resistance forces.

4. In brief, they have been carrying out a two-track policy:

- On the diplomatic front, they try to destroy the document of the five permanent members of the Security Council by seeking to modify it step by step. But their current main thrust is to block the election of H.R.H. Samdech Norodom Sihanouk as Chairman of SNC.

- On the field in Cambodia, they have mobilized forces presently in Cambodia and their newly arrived fresh troops as well as those of Heng Samrin-Hun Sen to capture the liberated zone controlled by the resistance forces, and to crush the resistance forces.

Thus the Vietnamese main objective is far from seeking a political settlement. They have rather pursued very actively their war of occupation of Cambodia. And Hun Sen continues to serve faithfully this Vietnamese objective.

II. Position of the Cambodian National Resistance under the leadership of H.R.H. Samdech Norodom Sihanouk

4. The only objective of the Cambodian National Resistance under the leadership of H.R.H. Samdech Norodom Sihanouk has been the liberation of Cambodia from the Vietnamese occupation so that the Cambodian people can exercise their right to self-determination thus allowing them to live in a liberal democratic régime with many political parties and a free-market economy.

5. We have come up with one peace proposal after another, and have made concessions after concessions in the spirit of compromise in order to arrive at a comprehensive political settlement.

6. We have even accepted Hun Sen and his group, installed and nurtured by the Vietnamese occupying forces in Cambodia, as one of the four Cambodian parties in the peace process.

7. We have supported whole-heartedly the document of the five permanent members of the Security Council, the Jakarta Joint Statement of 10 September 1990 and Security Council resolution 668 (1990). We remain fully committed to these three documents and are calling for their implementation by all parties.

8. We will resolutely defend those three documents. We will not allow Viet Nam and the Phnom Penh party to trample upon those documents or to modify them or to destroy them. We will join our forces with those of peace- and justice-loving countries which have supported the document of the five permanent members of the Security Council so as to compel Viet Nam and Hun Sen's faction to accept H.R.H. Samdech Norodom Sihanouk as Chairman of the SNC, and to implement the document of the five permanent members of the Security Council.

9. We will resolutely join our forces to carry out the struggle against the continued Vietnamese occupation of Cambodia. We will remain vigilant against any attempt by the Vietnamese occupying forces and their puppets to capture the liberated zone controlled by the resistance forces.

III. An appeal to the international community

10. The Cambodian National Resistance under the leadership of H.R.H. Samdech Norodom Sihanouk would like to call on the ASEAN countries and all other peace- and justice-loving countries in the world as well as the United Nations Organization, to whom the Cambodian National Resistance and the Cambodian people remain forever indebted for their support, to continue to bring pressure to bear on Viet Nam and Hun Sen's faction:

(a) To accept H.R.H. Samdech Norodom Sihanouk as Chairman of the SNC as has been hinted in the document of the five permanent members of the Security Council, the Jakarta Joint Statement and Security Council resolution 668 (1990);

(b) To implement in good faith the three above-cited documents.

11. Only then will the United Nations be able to play its enhanced role as outlined in the document of the five permanent members of the Security Council especially in:

(a) The verification and control of the withdrawal of all categories of Vietnamese forces from Cambodia and other related military issues;

(b) The administration of Cambodia in the transitional period leading to the election of a national government;

(c) The organization and verification of free and fair elections in Cambodia.

UNITED
NATIONS

A S

General Assembly Security Council

Distr.
GENERAL

A/45/662
S/21901
23 October 1990
ENGLISH
ORIGINAL: ENGLISH/FRENCH

GENERAL ASSEMBLY
Forty-fifth session
Agenda item 32
THE SITUATION IN CAMBODIA

SECURITY COUNCIL
Forty-fifth year

Letter dated 23 October 1990 from the Permanent Representative of Cambodia to the United Nations addressed to the Secretary-General

I have the honour to enclose herewith, for your information, the text of a statement of the Ministry of Foreign Affairs of the National Government of Cambodia, dated 19 October 1990, rejecting any agreement or treaty signed or to be signed with the Phnom Penh faction (see annex).

I should be very grateful if you could have the present letter and its annex circulated as an official document of the General Assembly, under agenda item 32, and of the Security Council.

(Signed) THIOUNN Prasith
Ambassador
Permanent Representative

ANNEX

Statement issued on 19 October 1990 by the Ministry of Foreign Affairs of the National Government of Cambodia rejecting any agreement or treaty signed or to be signed with the Phnom Penh faction

1. The National Government of Cambodia would like formally to reiterate what it has time and again informed national and international public opinion, that any "agreement or treaty" signed with the puppet régime installed in Phnom Penh by the Vietnamese occupying forces is null and void, with no value for the whole Cambodian people and nation.

2. The framework document of the five permanent members of the United Nations Security Council, the Jakarta Joint Statement of 10 September 1990 and United Nations Security Council resolution 668 (1990) have clearly indicated that once it is completed, that is, when it has H.R.H. Samdech Norodom Sihanouk as its Chairman, the Supreme National Council (SNC) will be "the unique legitimate body and source of authority in which, throughout the transitional period, the independence, sovereignty and unity of Cambodia is embodied".

In this respect, starting from the very day when the SNC is completed, it is the whole SNC who will alone embody the independence, sovereignty and unity of Cambodia; no one Cambodian party will enjoy such a prerogative.

Therefore, during the transitional period, that is, from the day the SNC is completed with H.R.H. Samdech Norodom Sihanouk as its Chairman to the day when there is a new national government resulting from free and fair elections under United Nations auspices, only the agreement (or agreements) signed with the SNC under the chairmanship of H.R.H. Samdech Norodom Sihanouk is (or are) legal.

UNITED NATIONS

A

General Assembly

Distr.
GENERAL

A/45/663
26 October 1990

ORIGINAL: ENGLISH

Forty-fifth session
Agenda item 79

DEVELOPMENT AND INTERNATIONAL ECONOMIC CO-OPERATION

Large-scale pelagic driftnet fishing and its impact on the living marine resources of the world's oceans and seas

Report of the Secretary-General

CONTENTS

		Paragraphs	Page
I.	INTRODUCTION	1 - 9	3
II.	THE CONCERNS OF THE INTERNATIONAL COMMUNITY	10 - 25	4
III.	LARGE-SCALE DRIFTNETS AND THEIR USE	26 - 33	7
IV.	RELEVANT INTERNATIONAL LEGAL INSTRUMENTS	34 - 49	9
	A. United Nations Convention on the Law of the Sea	34 - 46	9
	B. Convention on the Conservation of Migratory Species of Wild Animals	47	12
	C. Convention on international trade in endangered species of wild fauna and flora	48	12
	D. Convention on the Conservation of European Wildlife and Natural Habitats	49	13
V.	NATURE AND EXTENT OF THE PROBLEM	50 - 74	14
	A. Present state of world fisheries	50 - 54	14

CONTENTS (continued)

		Paragraphs	Page
	B. State of knowledge on the impact of large-scale driftnets on the living resources of the sea	55 - 67	14
	C. Management needs and objectives	68 - 74	17
VI.	REVIEWS BY REGION	75 - 152	19
	A. North Pacific	76 - 100	20
	B. South Pacific	101 - 119	26
	C. Indian Ocean	120 - 129	30
	D. Atlantic Ocean	130 - 145	32
	E. Mediterranean Sea	146 - 151	35
	F. Southern ocean	152	36
VII.	CONCLUSIONS	153 - 157	36
Annex.	General Assembly resolution 44/225, entitled "Large-scale pelagic driftnet fishing and its impact on the living marine resources of the world's oceans and seas"		41

I. INTRODUCTION

1. At its forty-fourth session, the General Assembly took up, for the first time, the issue of large-scale pelagic driftnet fishing. On 22 December 1989, the Assembly adopted resolution 44/225 on large-scale pelagic driftnet fishing and its impact on the living marine resources of the world's oceans and seas. In the resolution the Assembly noted that many countries were disturbed by the increase in the use of large-scale pelagic driftnets, which can reach or exceed 30 miles (48 kilometres) in total length, to catch living marine resources on the high seas of the world's oceans and seas. The Assembly drew attention to the fact that the resolution did not address the question of small-scale driftnet fishing traditionally conducted in coastal waters, especially by developing countries, which provided an important contribution to their subsistence and economic development.

2. The Assembly expressed concern that, in addition to targeted species of fish, non-targeted fish, marine mammals, seabirds and other living resources of the world's oceans and seas could become entangled in large-scale pelagic driftnets, either those in active use or in those that were lost or discarded, and as a result of such entanglement were often either injured or killed. It also noted the serious concern, particularly among coastal States and States with fishing interests, that the overexploitation of living resources of the high seas adjacent to the exclusive economic zone of coastal States was likely to have an adverse impact on the same resources within such zones, and noted also, in that regard, the responsibility for co-operation in accordance with the relevant articles of the United Nations Convention on the Law of the Sea. 1/

3. The Assembly recommended that all interested members of the international community, particularly within regional organizations, continue to consider and, no later than 30 June 1991, review the best available scientific data on the impact of large-scale pelagic driftnet fishing and agree upon further co-operative regulation and monitoring measures, as needed.

4. In paragraph 4 of the resolution, the Assembly also recommended that all members of the international community agree to the following measures:

(a) Moratoria on all large-scale pelagic driftnet fishing on the high seas by 30 June 1992, with the understanding that such a measure will not be imposed in a region or, if implemented, can be lifted, should effective conservation and management measures be taken based upon statistically sound analysis to be jointly made by concerned parties of the international community with an interest in the fishery resources of the region, to prevent the unacceptable impact of such fishing practices on that region and to ensure the conservation of the living marine resources of that region;

(b) Immediate action to reduce progressively large-scale pelagic driftnet fishing activities in the South Pacific region leading to the cessation of such activities by 1 July 1991, as an interim measure, until appropriate conservation and management arrangements for South Pacific albacore tuna resources are entered into by the parties concerned;

(c) Immediate cessation of further expansion of large-scale pelagic driftnet fishing on the high seas of the North Pacific and all the other high seas outside the Pacific Ocean, with the understanding that this measure will be reviewed subject to the conditions in paragraph 4 (a) of the resolution.

5. The Assembly also encouraged those coastal countries which have exclusive economic zones adjacent to the high seas to take appropriate measures and to co-operate in the collection and submission of scientific information on driftnet fishing in their own exclusive economic zones, taking into account the measures taken for the conservation of living marine resources of the high seas.

6. In paragraph 7, the General Assembly requested the Secretary-General to bring the resolution to the attention of all members of the international community, intergovernmental organizations, non-governmental organizations in consultative status with the Economic and Social Council, and well-established scientific institutions with expertise in relation to living marine resources.

7. Accordingly, the Secretary-General sent a note verbale to all members of the international community, drawing their attention to General Assembly resolution 44/225. Letters were also addressed to 17 intergovernmental organizations and non-governmental organizations having consultative status with the Economic and Social Council and to 12 well-established scientific institutions with expertise in relation to living marine resources.

8. The Secretary-General has received a number of responses from States, intergovernmental and non-governmental organizations and scientific organizations, which have been taken into account in the preparation of this report.

9. The Secretary-General wishes to acknowledge the value of all the contributions he has received and the assistance provided, in particular, by the Food and Agriculture Organization of the United Nations (FAO) which has submitted to the Secretary-General a detailed analytical study that was used in the preparation of this report. 2/

II. THE CONCERNS OF THE INTERNATIONAL COMMUNITY

10. The issue of large-scale pelagic driftnet fishing was briefly discussed by the Governing Council of the United Nations Environment Programme (UNEP) at its fifteenth session in May 1989. UNEP co-sponsored with other agencies an international symposium and workshop on "Mortality of Cetaceans in Passive Fishing Nets and Traps", held in October 1990. It has also co-sponsored with FAO and the Office for Ocean Affairs and the Law of the Sea of the Secretariat an informal workshop on international legal arrangements for the management and conservation of high-seas living resources, to be held in October 1990 during an international conference on the concept of large marine ecosystems. UNEP is also co-operating with FAO in the preparation of a special report on the global extent and probable impact of driftnets on non-targeted species.

11. The South Pacific Forum, meeting at Tarawa, Kiribati, on 10 and 11 July 1989, resolved in the Tarawa Declaration, for the sake of the present and succeeding generations of Pacific peoples, to seek the establishment of a régime for the management of albacore tuna in the South Pacific that would ban driftnet fishing from the region. Such a ban might then be the first step to a comprehensive ban on such fishing (see A/44/463, annex).

12. The Joint Assembly of the African Caribbean and Pacific States and the European Economic Community (ACP/EEC) met at Versailles, France, in September 1989 and adopted a resolution urging all EEC and ACP member States to take various actions with regard to driftnets, including a ban on driftnet fishing in their own waters, and to work towards a world-wide agreement for sound tuna fishing management with a ban on the use of driftnets.

13. The Commonwealth Heads of Governments' Meeting at Kuala Lumpur, in October 1989, in their Langkawi Declaration on Environment (A/44/673, annex), expressed support for the Tarawa Declaration and agreed to discourage and restrict non-sustainable fishing practices and to seek to ban pelagic driftnet fishing.

14. At its twenty-fifth session, held in Rome, from 11 to 30 November 1989, the FAO Conference discussed the matter in some detail and

> "noted the serious concern expressed by some member nations over the increasing use of large-scale pelagic driftnets, particularly in the South Pacific Ocean. It noted that this issue was also being currently considered in the United Nations General Assembly, which had draft resolutions before it. Some member nations stated that already there was sufficient evidence of the negative impact of large-scale high seas driftnets to warrant the international community supporting an immediate ban on their use. They also stressed that this action should not be delayed pending the outcome of any further analysis. However, some other Member Nations were of the view that little scientific evidence was available on this issue to justify a ban on the use of large-scale pelagic driftnets and referred to measures that had already been taken by some countries. The Conference agreed that FAO was the most appropriate technical organization to study this matter. The Conference noted the steps already taken by FAO and agreed that this issue should continue to receive the Organization's closest attention. The Conference recommended that as far as it was feasible, and in the light of the outcome of the United Nations General Assembly's debate on the above mentioned draft resolutions, FAO should undertake further action, including analytic scientific work, to improve the information available. The secretariat should report on progress in this matter to the next session of the Committee on Fisheries." 3/

15. In order to follow up on that recommendation, the Director-General of FAO convened in Rome from 2 to 6 April 1990 an expert consultation on large scale pelagic driftnet fishing. The report of the consultation was transmitted to the Secretary-General and its content has been taken into account in the preparation of the present report. 4/

16. The Convention for the Prohibition of Fishing with Long Drift Nets in the South Pacific, called the Wellington Convention, was adopted at Wellington on 24 November 1989. According to article 3 of the Convention, each Party undertakes to take certain specific measures against drift-net fishing activities, for example, not to assist or encourage the use of drift-nets and, consistent with international law, to restrict such activities in the Convention area. Each party may also take measures such as to prohibit the landing of driftnet catches within its territory, to restrict port access and port servicing facilities for drift-net fishing vessels etc.

17. In the Castries Declaration, adopted by the Organization of Eastern Caribbean States on 24 November 1989 (A/45/64, annex), the member States resolved to establish a regional régime for the regulation and management of the pelagic resources in the Lesser Antilles region that would outlaw the use of driftnets and other disruptive fishing methods by commercial fishing vessels, and called upon other States in the region to co-operate in that regard.

18. In June 1990, the Council of the North Atlantic Salmon Conservation Organization (NASCO) 5/ adopted a resolution endorsing the substance of General Assembly resolution 44/225 and reiterating that the fishing of salmon, whether by use of large-scale pelagic driftnets or by any other means, beyond areas of fisheries jurisdiction of the coastal States within the NASCO Convention area was contrary to the objective and spirit of the NASCO Convention.

19. At its 42nd annual meeting, in July 1990, the International Whaling Commission (IWC) adopted a resolution in support of Assembly resolution 44/225, in which the Commission noted, inter alia, that more than 1,000 fishing vessels use large-scale pelagic driftnets in the Pacific Ocean, the Atlantic Ocean, the Indian Ocean and in other areas of the high seas, including important habitats for cetaceans encompassing feeding and breeding grounds and migratory pathways. The Commission endorsed Assembly resolution 44/225 and drew the attention of the Secretary-General to various relevant actions taken by the Commission concerning research and evaluation of information pertaining to marine mammals by-catch including the organization of an international symposium and workshop on "Mortality of Cetaceans in Passive Fishing Nets and Traps," held in October 1990.

20. At the 21st South Pacific Forum meeting held at Port Vila, Vanuatu, on 31 July and 1 August 1990, South Pacific leaders reiterated their commitment to the elimination of driftnet fishing. In its communiqué (A/45/456, annex), the Forum: (a) endorsed the Convention for the Prohibition of Fishing with Long Drift Nets in the South Pacific; (b) called on all interested parties to accede to the Convention or its Protocols as appropriate; (c) welcomed Japan's decision to cease driftnet fishing one year in advance of the date stipulated in General Assembly resolution 44/225; and (d) directed that every effort be made to find means to involve Taiwan Province of China in negotiations for a management régime for South Pacific albacore tuna (see para. 115).

21. At its first session, held at Nairobi from 6 to 31 August 1990, the Preparatory Committee for the United Nations Conference on Environment and Development requested the Secretary-General of the Conference to submit to the

Preparatory Committee at its second session a report with recommendations for action covering, inter alia, (a) the impact of large-scale harvesting, and new fishing technologies and fishing technologies incompatible with the sustainable management of living marine resources, taking into account General Assembly resolution 44/225 and (b) appropriate measures for the conservation, rational use and sustainable development of the living resources of the high seas and the protection of their ecosystems (see A/45/46, annex I, decision 1/20).

22. In early September 1990, the International Conference on the Conservation and Management of the Living Resources of the high seas was held at St. John's, Newfoundland, Canada, at the initiative of the Government of Canada. The conference was attended by experts from 15 countries and reached, inter alia, the following conclusions:

(a) Environmentally harmful practices on the high seas, in particular those practices which result in indiscriminate and wasteful catches and threaten effective conservation of living marine resources, including fish, marine mammals and birds as well as endangered species, or which can jeopardize the biodiversity and the integrity of marine ecosystems, must be terminated;

(b) There must be full, timely and effective implementation of General Assembly resolution 44/225, including an immediate cessation of further expansion of large-scale driftnet fishing on the high seas and the cessation of remaining large-scale driftnet fishing in the South Pacific. 6/

23. At its 66th session, from 26 to 28 September 1990, the Fisheries Committee of the Organisation for Economic Co-operation and Development (OECD) took note of Assembly resolution 44/225 and gave support to its implementation.

24. Non-governmental organizations have submitted information and comments to the Secretary-General that were taken into account in the preparation of the present report. It must be noted that a number of these organizations, such as Greenpeace and Earthtrust, have created awareness of the ecological problems arising from large-scale driftnet fishing.

25. In addition, some of the world's largest sellers of canned tuna have announced that they have stopped buying tuna caught in nets that also trap and kill marine mammals such as dolphins. 7/ Such consumer action will result in depressing the prices for driftnet-caught products and thus provide a strong disincentive for distant water fleets engaged in large-scale driftnetting.

III. LARGE-SCALE DRIFTNETS AND THEIR USE

26. A driftnet is a fishing gear made of a single or several rectangular panels of net webbing linked together and suspended vertically in the water by floats on the top of the panels and sinkers at the bottom. They drift with the winds and the currents, thus creating a webbing curtain in which the fish are enmeshed. By adjusting the size and the weight of the floats and sinkers it is possible to modify the buoyancy of the net and to suspend it at various depths in the water

column. Driftnets belong to a broader category of nets called gillnets. The other types of gillnets include set-gillnets, encircling gillnets and fixed gillnets. 8/

27. Until the 1950s the size of driftnets was necessarily limited by the weight of the natural fibres (hemp or cotton) of which they were made. The introduction of synthetic fibres and the growing utilization of hydraulic winches allowed fishermen to fish with longer sets of nets, thus increasing the fishing power of the gear, but also increasing the incidental catches of non-targeted species, in particular marine mammals.

28. The gear is now used both by modern industrial fleets operating on the high seas (with nets from 5 to 50 km in length) and by artisanal and semi-industrial fishermen of developing countries in coastal areas (with nets from a few hundred metres up to more than 10 km in length). 9/ The focus of this report is on the use of large-scale driftnets by fishing fleets operating on the high seas, since the Assembly in resolution 44/225 expressly did not address the question of small-scale driftnet fishing traditionally conducted in coastal waters, especially by developing countries. There is no internationally agreed definition of what should be considered as a "large" driftnet and state practice is not uniform. Several States have adopted laws and regulations on the maximum length of the gear: New Zealand 1 km, Australia 2.5 km, USSR 3.7 km (see also para. 148). The Convention for the Prohibition of Fishing with Long Drift Nets in the South Pacific set the limit at 2.5 km. The member countries of the Indian Ocean Fishery Commission recently considered that for socio-economic reasons it was felt that the solutions being contemplated in other regions of the world (for example, the South Pacific), in particular with regard to the maximum size of driftnets, might not be mutatis mutandis applicable to the Indian Ocean.

29. It should be noted, however, that high-seas driftnet fishery presents unique problems in terms of management and data collection since that depends on the co-operation of the States concerned. By comparison, according to the submission from the Government of Australia dated 11 July 1990, it is much more likely that driftnet fisheries based on the exclusive economic zone will be regulated or at least monitored than those on the high seas.

30. Japan has conducted modern large-scale driftnet fishing for salmon in the North Pacific since the 1950s under agreements with the Soviet Union, Canada and the United States of America. In the late 1970s, the high incidental catches of squid in this fishery prompted fishermen to develop a new gillnetting technology to exploit squid during the closure of the salmon season. This led to a great expansion of effort into the new drifnet fishery for squid in the central northern North Pacific. An albacore driftnet fishery using large meshed nets originated in the coastal waters of Japan and expanded into the North Pacific in the mid-1970s and into the South Pacific from the mid-1980s.

31. The magnitude of the impact of those high seas driftnet fisheries may be assessed from the levels of their annual yields. With a total driftnet catch in the North Pacific in 1988 of about 300,000 tons of squid, this fishery accounts for an appreciable part of the total squid landings from the Pacific for that year, which were estimated at about 850,000 tons. The driftnet fishery for albacore in

the North Pacific represented, with a catch of about 9,000 tons in 1986/87, only about 20 per cent of the total yield of this stock, whereas for the South Pacific albacore the total catches greatly increased in 1989, owing to driftnet fishing, and exceeded by far the leval of exploitation suggested to be safe by scientists from all interested countries. 10/

32. A new driftnet fishery for albacore by French vessels has operated in the Bay of Biscay since 1986. A large-mesh driftnet fishery for swordfish and albacore has been operated in the central Mediterranean by an Italian fleet (see para. 147). In addition, there exists a number of smaller driftnet fisheries in various parts of the oceans mainly operated in waters under national jurisdiction. More detailed accounts of those fisheries are given under section VI below.

33. It was the effectiveness of this type of gear and the ease with which very large amounts of nets could be and were deployed in recent years in the South Pacific which raised serious concern in the first instance among the coastal States of the region, whose economies are linked to and in some cases dependent on the effective management and conservation of the fisheries resources within their exclusive economic zones. According to the submission of the Government of New Zealand dated 7 September 1990, the sudden increase of driftnet vessel effort was seen as a threat to the long-term sustainability of some of the important fish resources, in particular albacore, as well as representing a serious environmental threat with respect to the by-catch of marine mammals and other living resources taken by the gear. That situation prompted the South Pacific Forum States to adopt the Tarawa Declaration and subsequently the Wellington Convention banning the use of driftnets longer than 2.5 km.

IV. RELEVANT INTERNATIONAL LEGAL INSTRUMENTS

A. United Nations Convention on the Law of the Sea

34. In accordance with article 87 of the United Nations Convention on the Law of the Sea all States enjoy freedom of fishing on the high seas. This freedom is subject to the conditions to be found in the provisions relating to the conservation and management of the living resources of the high seas. In particular the right to fish on the high seas is subject, among other things to treaty obligations and the rights and duties as well as the interests of coastal States provided for, inter alia, in articles 63 to 67, dealing, respectively, with straddling stocks, highly migratory species, marine mammals, anadromous stocks and catadromous species. Those provisions, though found in the section of the Convention on the exclusive economic zone, have important consequences on the conservation and management of the living resources of the high seas (see paras. 40-45).

35. All States are under an obligation to take, with respect to their nationals, measures for the conservation of the living resources of the high seas (art. 117). They have the general duty to co-operate in the conservation and management of living resources of the high seas and a particular duty, where their nationals exploit "identical living resources, or different living resources in the same

area", to enter into negotiations with a view to taking the necessary conservation measures and, as appropriate, to establish subregional or regional organizations (art. 118).

36. Article 119 of the Convention sets out the factors to be considered in determining the allowable catch and establishing other conservation measures for the living resources of the high seas. Such measure shall be designed "on the best scientific evidence available to the States concerned, to maintain or restore populations of harvested species at levels which can produce the maximum sustainable yield, as qualified by relevant environmental and economic factors, including the special requirements of developing States, and taking into account fishing patterns, the interdepedence of stocks and any generally recommended international minimum standards, whether subregional, regional or global" (art. 119, para. 1 (a)).

37. In taking such measures, States are obliged to take into consideration the effects on species associated with or dependent upon harvested species. The Convention also provides for the contribution and exchange of available scientific information, catch and fishing effort statistics and other data relevant to the conservation of fish stocks through competent international organizations and with participation by all States concerned (art. 119).

1. Straddling stocks

38. The Convention provides for States to take measures in order to co-ordinate and ensure the conservation and development of stocks when the same stock or stocks of associated species occur within the exclusive economic zones of two or more coastal States. In cases where such stocks occur both within the exclusive economic zone and in an area beyond and adjacent to it, provision is made for both the coastal States and the States fishing such stocks to seek, either directly or through appropriate subregional or regional organizations, to agree upon the measures necessary for the conservation of these stocks in the adjacent area (art. 63). These areas would fall under the régime of the high seas.

2. Highly migratory species

39. The coastal States and other States whose nationals fish for highly migratory species have the duty to co-operate to ensure conservation of such species and also to promote the objective of their optimum utilization throughout the region, both within and beyond the exclusive economic zone. Such co-operation is to take place either directly or through appropriate international organizations. In addition, where no such organization exists in the region the coastal State and other States shall co-operate in establishing such an organization and participating in its work (art. 64).

3. Marine mammals

40. Marine mammals enjoy special protection under article 65 of the Convention. Coastal States can prohibit, limit or regulate the exploitation of marine mammals more strictly than is provided for in part V of the Convention (art. 120). Cetaceans are especially singled out among the marine mammals requiring protection and management through the appropriate international organizations. This provision also applies to the conservation and management of marine mammals in the high seas.

4. Anadromous stocks

41. The Convention has established a special régime for the fishing of anadromous stocks, those fish that ascend rivers to spawn. The State of origin of anadromous stocks (that is, the State in whose rivers those stocks originate) enjoys a preferential status in that it has the primary interest and responsibility for such stocks.

42. Fishing for anadromous stocks can only be conducted in waters landward of the outer limits of the exclusive economic zone, and it is the State of origin that shall establish appropriate regulatory measures for fishing those stocks in the waters landward of its exclusive economic zone.

43. Where the restriction that fishing for anadromous stocks shall be conducted only in the waters landward of the outer limits of exclusive economic zones results in economic dislocation for a State other than the State of origin, fishing for such stocks may be conducted beyond the outer limits of the exclusive economic zone. With respect to such fishing, article 66, paragraph 3 (a), declares that the "States concerned shall maintain consultation with a view to achieving agreement on terms and conditions of such fishing giving due regard to the conservation requirements and the needs of the State of origin in respect of these stocks".

44. The interest of the State of origin is to a certain extent also protected with regard to anadromous stocks migrating through the waters landward of the outer limits of the exclusive economic zone of a State other than the State of origin. In such cases the third State is under a duty to co-operate with the State of origin for the conservation and management of such stocks.

5. Catadromous species

45. The responsibility for the management of catadromous species, those that descend to the lower reaches of rivers or to the sea to spawn, rests with the coastal States in whose waters those species spend the greater part of their life cycle. Harvesting of such species shall be conducted only in waters landward of the outer limits of the exclusive economic zone. Where such species migrate through the exclusive economic zone of another State, that State and the State that has the responsibility for the species shall ensure the rational management and harvesting of the species through agreements (art. 67).

6. Protection and preservation of the marine environment

46. The provisions of the Convention on the protection and preservation of the marine environment are also of relevance since the concept of the protection of the marine environment also includes the protection of marine living resources. All States have the fundamental obligation "to protect and preserve the marine environment" (art. 192) and in accordance with article 194 are under a duty to take all measures consistent with the Convention to prevent, reduce and control pollution of the marine environment from any source including those necessary "to protect and preserve rare or fragile ecosystems as well as the habitat of depleted, threatened or endangered species and other forms of marine life" (art. 194, para. 5).

B. Convention on the Conservation of Migratory Species of Wild Animals

47. The aim of the Convention on the Conservation of Migratory Species of Wild Animals, 11/ adopted in 1979 and known as the Bonn Convention, is to organize the conservation of wild animal populations, a significant proportion of whose members cyclically and predictably cross one or more national jurisdictional boundaries. The endangered species are enumerated in appendix I of the Convention and include different types of whales and the monk seal together with certain species of marine turtles and sea birds. According to article 5 (a) of the Convention "Parties that are Range States of a migratory species listed in Appendix I shall prohibit the taking of animals belonging to that such species". The definition given by the Bonn Convention of a range State includes "a State, flag vessels of which are engaged outside national jurisdictional limits in taking that migratory species" (art. 1 (h)). Appendix II enumerates a list of species for the conservation of which States are requested to co-operate, in particular through the signature of international agreements. The original list included one species of dolphin but at the 1988 conference of the parties it was decided to add six small cetaceans from the Baltic Sea and the North Sea.

C. Convention on international trade in endangered species of wild fauna and flora

48. The Convention on international trade in endangered species of wild fauna and flora, 12/ adopted in 1973 and known as CITES, intends to protect certain species of wild fauna and flora against over-exploitation through international trade. The international trade includes the introduction from the sea, which is defined by the Convention as "the transportation into a State of specimens of any species which were taken in the marine environment not under the jurisdiction of any State" (art. 1 (e)). Like the Bonn Convention, CITES has listed the endangered species in different appendices. Appendix I includes all species threatened with extinction that are or may be affected by trade and comprises different species of whales and marine turtles. The import and export in specimens of those species are strictly regulated and require the approval of the authorities of the State who is a

contracting party to the Convention, while the introduction from sea of a specimen of such species requires the prior grant of a certificate from a management authority of the State of introduction. However, those requirements do not apply to the transit or transshipment of specimens through or in the territory of a party (art. 8). Moreover, the applicability of CITES is limited by the possibility given to the States to enter specific reservations when becoming a contracting party, in which case the State is not considered a party with respect to trade of the species specified in the reservation. Accordingly, countries like Japan, Norway, the Soviet Union and Peru entered reservations regarding certain species of cetaceans.

D. Convention on the Conservation of European Wildlife and Natural Habitats

49. The aims of the Convention on the Conservation of European Wildlife and Natural Habitats, 13/ adopted in 1979 and known as the Bern Convention, are to conserve wild flora and fauna with particular emphasis on endangered and vulnerable species, including migratory species (art. 1). The Convention has several appendices of which appendices II and IV are particularly relevant. Appendix II lists the strictly protected fauna species. The list includes a large number of cetaceans and sea birds. According to article 6 of the Convention, the contracting Parties shall take appropriate and necessary legislative and administrative measures to ensure the special protection of the wild fauna specified in appendix II. In particular, they shall prohibit for those species all forms of deliberate capture and keeping and deliberate killing, the deliberate disturbance of wild fauna, particularly during the period of breeding, rearing and hibernation, in so far as disturbance would be significant in relation to the objectives of the Convention (art. 6 (a) and (c)). Appendix III lists the protected fauna species and includes all the cetaceans not mentioned in appendix II. Article 8 stipulates that, in respect of the capture or killing of wild fauna species in appendix III, contracting parties shall prohibit the use of all indiscriminate means of capture and killing and the use of all means capable of causing local disappearance of, or serious disturbance to, populations of species, and in particular the means specified in appendix IV. Appendix IV lists prohibited means and methods of killing, capture and other forms of exploitation and includes nets used on a large-scale or in a non-selective manner. The interpretation of those provisions is difficult as shown by a recent case before Italian tribunals. Several conservationist organizations requested an administrative court to repeal a decree regulating the Italian driftnet fishery for swordfish and albacore in the Mediterranean on the basis that that decree was contrary to the Bern Convention in that it authorized the use of non-selective nets. This argument was upheld by the Court, which suspended the decree on the basis that it authorized the use of a non-selective gear. The judgment was subsequently confirmed by the upper administrative court (the Council of State).

V. NATURE AND EXTENT OF THE PROBLEM

A. Present state of world fisheries

50. Improvements in fishing technology represented the basis for a prolonged period of rapid expansion of world fish catch after the Second World War. The two most important changes were the use of synthetic fibres in the manufacture of nets and the freezing of catches at sea. Those innovations together with other advances in technology permitted widespread use of large nets and a dramatic increase in the size, versatility and operational range of the fishing craft. Boosted by this technological development the world catch doubled from 20 million tons in 1950 to 40 million tons in 1960. That trend was further enhanced by the deployment of distant-water fishing vessels on a global scale by the 1960s and production increased again by another 25 million tons by 1970.

51. The rapid acceleration of fisheries production by a limited number of technologically advanced fishing nations was probably one of the factors that led coastal States to extend their jurisdiction to 200 miles. That change of fisheries régime caused distant water fishing nations to increase their activities on the high seas.

52. After a period of slow growth in the 1970s, fish production rose significantly during the 1980s and now approaches 100 million tons annually. 14/ However, the larger part of the recent increase comes from inland waters and from higher catches of small pelagic sardine-like fish, the latter being known to fluctuate considerably in abundance. In general, it is thought that the yields of the stocks of most preferred fish have reached or are approaching levels of full exploitation.

53. Meanwhile, the demand for fish continues to rise. It is expected to substantially exceed 100 million tons by the year 2000, and will no doubt continue to increase at a significant rate with the forecasted strong growth of world population into the next century and the consequent needs for growth of world food supplies. While there is a limited potential for increased supplies from world fisheries to match the expected long-term demands, there will be a need to seek to obtain the full sustainable yield of the resources, notably by curtailing waste.

54. In recognition of the importance of sustainability in the use of living resources, a high priority should be given to the monitoring and prevention of environmental degradation in both marine and inland waters and to the promotion of inter-country co-operation in protecting the aquatic environment.

B. State of knowledge on the impact of large-scale driftnets on the living resources of the sea

55. Driftnets are generally used to catch fish that are distributed in fairly low densities over larger sea areas. Trolling for albacore tuna and jigging for oceanic squid are other fishing methods used under similar conditions of fish behaviour. Because of its effectiveness in the exploitation of fish, at relatively low densities, large-scale driftnet fishing can cause serious depletion of targeted stocks.

56. The internationally accepted definition for a driftnet is a type of gillnet. With this type of gear, fish are gilled, entangled or enmeshed in the netting. A driftnet is kept on the surface or a certain distance below it by numerous floats drifting freely with the current. Gillnets have been used inshore for centuries around the world. Large-scale driftnets can entangle large fish because they are loosely hung and neutrally buoyant. This type of gear in consequence is less selective by species than gillnets proper. 15/

57. Two types of the impact of large-scale pelagic driftnet fishing have caused the most widespread concern: first, commercially important species that are landed in poor condition or discarded, perhaps due to long soak time or damage by predators, and second, the incidental by-catch of non-targeted fish and other animals. The information available on the types and amounts of the by-catch is limited largely by the failure of driftnetting fishing interests to record and share relevant data. It seems clear, however, that there are considerable variations between fisheries and areas. The by-catches and discards may consist of various categories:

(a) Other commercial fish (apart from the targeted species) retained as part of the catch;

(b) Fish of commercial value discarded and thus forming part of the waste from the fishery;

(c) Species without commercial importance that may be important to the ecosystem or valued for other reasons.

58. In category (a) (commercial fish added to the catch), striped marlin, swordfish and other tuna species are reportedly netted at times in substantial quantities in the Pacific driftnet fisheries for albacore. These by-catches add to the complexities of the international competition for resources and to the problems of their rational management. By-catches of salmon in the North Pacific driftnetting for squid are a serious problem. Solutions have been sought in adjusting the area where squid fishery is permitted in relation to the differential distributions of the species.

59. In category (b), by-catch of commercial fish not retained can be high (for example, 100,000 tons of pomfret in the North Pacific squid driftnet fishery), but it is apparently less significant in the large-mesh fisheries. Sharks are often found entangled in driftnets. Although they represent a valuable commercial resource - in particular the fins and the oil from the liver - they are often discarded at sea. Because they do not have the same positive image as marine mammals, the problem is largely ignored but there is a growing evidence of widespread over-exploitation of several species of sharks.

60. Category (c), by-catches of non-commercial but otherwise important to the ecosystems, represents a grave problem. Of greatest public concern is the prospect of high catch numbers of incidentally caught marine mammals (such as dolphins, small whales and fur seals), turtles and birds. Some of these species are listed among the world's threatened and endangered species of wildlife. Virtually all of

them reproduce at a considerably lower rate than the targeted species. Some rather incomplete information is available of by-catch rates of those species from observer programmes in the commercial fisheries and from research vessel programmes. Further data of this type will no doubt be forthcoming, but there is a serious lack of reliable information on the size and state of the affected stocks, which causes uncertainties when attempting impact assessments.

61. Cetacean by-catches have been recorded in nearly all large-scale driftnet fisheries where scientific observers have worked. Cited provisional estimates of rates of interception are of the order of 0.6 cetaceans per 10 km of driftnets per day for tuna driftnet fisheries in the South Pacific 16/ and 0.4 cetaceans per 10 km of driftnets per day for the North Pacific squid driftnet fishery. 17/ The total numbers of marine mammals and birds killed incidentally by the various fisheries can only be estimated very roughly. For the North Pacific squid fishery the numbers of marine mammals killed this way are in the order of hundreds to around 50,000 individuals per year depending on the species. Very preliminary estimates by some scientists suggest that for two of the stocks affected that may represent a number of the order of 0.5 to 1 per cent of the population. It must, however, be acknowledged that such estimates are very preliminary and that in general a fair description of the present position is that the cumulative numbers of small marine mammals taken in surface driftnets in a year can be very large, but inadequate knowledge of the population sizes makes impact evaluations very difficult. Based on the information contained in FAO Fisheries Report No. 434, the estimated total cetacean catch in pelagic driftnets for the 1988/89 season is a minimum of 300,000 and a maximum of 1.06 million animals. The great majority of cetaceans entangled would have been oceanic dolphins and porpoises, according to the submission by New Zealand. Some species that have been entangled, however, are listed in appendix I of the Convention on international trade in endangered species of wild fauna and flora (see para. 48) and are thus already considered endangered.

62. Further, a large number of birds are killed by the North Pacific squid fishery, the most common species being the shearwaters. Particular concern was expressed in a policy paper submitted by the United States Government with regard to the impact on the short-tailed albatross, the dark-rumped petrel (Hawaiian subspecies) and the Townsend's shearwater (Newell's subspecies). It is far from clear given the present knowledge of bird populations whether such levels of mortality are sustainable by the populations concerned. In any event, some sea birds that have been entangled and killed in large-scale pelagic driftnets in the North Pacific include species that are listed as endangered in appendix I of CITES.

63. The issue of cetacean by-catches is also being addressed by a number of international organizations, including IWC, UNEP and the International Union for the Conservation of Nature, as well as non-governmental organizations, the World Wildlife Fund, Greenpeace and others. UNEP adopted in 1984 a Global Plan of Action for the Conservation, Management and Utilization of Marine Mammals, developed as a joint FAO/UNEP effort, which includes a number of activities relating to the interactions between marine mammals and fisheries. The information on marine mammal by-catch will likely be improved by the symposium and workshop on "Mortality of Cetaceans in Passive Fishing Nets and Traps" organized by IWC in co-operation with other organizations and held in October 1990.

64. Waste by driftnet fishing occurs in various ways. Visible drop-out of dead fish while fishermen are hauling in the gear represents one source. Observers have recorded 5 to 9 per cent of such losses, but that type of waste may be reduced by manual recovery during the operation. That does not account for the wastage of targeted fish that are damaged or spoiled by the time they are brought on deck or undetected drop-out that occurs prior to or during the hauling of the net. A proportion of fish escape from the nets alive, but with some driftnet damage. Mortality from such damage is unknown, but is likely to occur in addition to mortality due to predation while on the net. Discarding of fish of commercial value from the catch represents another source of waste, such as pomfret in the squid fishery.

65. "Ghost-fishing" by lost or discarded sections of net is of considerable concern both because of waste of fish caught and potential entanglement of marine mammals. There is a view that driftnets will continue to fish permanently when it is lost or discarded. However, little concrete information is available on the rate of loss of driftnets and the fate of the pieces of lost nets and their actual fishing power. In its submission the Government of Japan reported that, according to the results of some experiments, lost nets lose their length exponentially as time goes by to turn into a solid mass. It should be noted that, according to the submission of the Government of Canada, dated 6 September 1990, scientists consider that the results of that research to be inconclusive and that monofilament plastic driftnets do not readily break down and can maintain their integrity for long periods. There is need for urgent study of this matter since it is not only wasteful of resources but also impacts on the marine ecology.

66. The deliberate disposal of derelict fishing gear in the sea represents a form of dumping of waste and marine pollution and is as such prohibited under various international agreements, in particular annex I to the 1972 Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter 18/ and annex V to the 1973-1978 Convention for the Prevention of Pollution from Ships 19/ and the United Nations Convention on the Law of the Sea.

67. Driftnets may also interfere with the legitimate use of the ocean by other vessels, thus endangering navigational safety, although statistics on the problem are not available. The main areas of concern are interaction on the fishing ground with both fishing and merchant vessels and problems that occur away from fishing areas because of lost gear. 20/

C. Management needs and objectives

68. Opportunities for effective management of the world's marine fishery resources were significantly improved when the widespread extension of fisheries jurisdiction in the late 1970s brought about 90 per cent of those resources under coastal State control. The state of open access to such resources under the old régime had been perceived as one of the main obstacles to the effective regulation of the fisheries. Attempts to allocate access and share responsibility for rational management through regional fisheries conventions had often failed. Under the new régime both access to and the responsibility for management of resources within

zones of national jurisdiction are more clearly defined and in many regions that has already resulted in improvements.

69. According to the provisions of the Convention on the Law of the Sea, States fishing on the high seas are under an obligation to conserve the living resources of the high seas, to co-operate with other States on taking conservation measures, to negotiate conservation measures and to generate and contribute scientific information. Those obligations are in general parallel to those placed on coastal States concerning their responsibility for conservation of the resources within zones of national jurisdiction. The principle of the freedom of fishing on the high seas represents, however, a condition of open access to the resources, which creates problems of regulation, control and enforcement. With the increasing competition for the fish resources, there will be a need to conclude regional agreements regarding the use of high seas stocks, especially if the fishery may have adverse effects on stocks under national jurisdiction. Only few such agreements exist so far. Regional fisheries organizations seem the appropriate forums for the discussion and development of régimes for high seas fisheries. Those fisheries also present a number of special problems relating, inter alia, to the highly migratory species, anadromous fish and straddling stocks (see paras. 38-45).

70. The recommendations contained in General Assembly resolution 44/225 have already had an important impact on the international community. Their complete implementation requires further measures in the form of national legislation governing activities of the flag State's vessels on the high seas, international agreements, and the adoption of internationally agreed practices, which may be subregional, regional or global in character. The main objective should be the long-term sustainability of the resources affected. More specific management objectives requiring attention include sustained development within the natural constraints of the oceanic ecosystem, optimum sustained utilization of both targeted and non-targeted species, including reduction of waste, orderly development of the fishing industry, safety of navigation and avoidance of international conflict.

71. It may be difficult to attain some of those objectives within a reasonable cost and time-scale. Thus, sustainable development of fisheries within the natural constraints of the ecosystem implies that the fisheries should be managed from an ecosystem perspective and that a much greater understanding of the oceanic environment would be required to achieve such a goal. In practice there would be great difficulties in obtaining the enormous amount of data needed for a modelling of the oceanic ecosystem, including the trophic levels, some of which are almost unknown at present. In such circumstances prudence would dictate that the management measures taken should be precautionary in nature and should be consistent with the principles of sustainable development of resources.

72. In practice, the central management issue is the optimum sustained utilization of the targeted species of the fisheries and the simultaneous conservation of the other components of the ecosystem affected, such as marine mammals and birds. Although little is known of the role of each species in the ecosystem, conservation of them is thought to be important for the preservation of the stability of the

system itself. In considering the acceptability of impacts of large-scale pelagic driftnet fisheries on marine mammals, the United States, in its submission, recognized an approach determined by the maximum net productivity level of the affected species or stock. In its view, any by-catch of populations that are currently below that level must be considered unacceptable.

73. An essential requirement for any fishery management scheme is the availability of accurate data on catches and fishing efforts. Thus it is the duty of all concerned in fisheries, involving driftnet fishing on the high seas, to make available to other States and international organizations all available data, including biological data. 21/

74. It has been suggested that most conventional management measures are potentially applicable to driftnet fishing, for instance control and limitation of fishing effort, control of the distribution of effort in space (closed areas) and/or time (closed seasons), gear modifications etc. The control of fishing effort implies determination of appropriate levels of fishing to achieve the desired catch. The use of closed areas and seasons should be based on adequate knowledge of the behaviour of the fleets and on the life-cycle and migration of the targeted and non-targeted species concerned. For example, research in the North Pacific by certain countries including Japan and the Republic of Korea has shown a close relationship between temperature, salinity, species and size distribution with little overlap. Japan has used this information in a system for regulating the operations of the squid driftnet fleet by areas and seasons with the aim of reducing by-catches of salmon. However it should be noted that the General Assembly resolution requires a temporary or permanent ban on large-scale driftnet fishing on the high seas with the understanding that such a measure will not be imposed in a region or, if implemented, can be lifted, should effective conservation and management measures be taken based upon statistically sound analysis to be jointly made by concerned parties of the international community with an interest in the fishery resources of the region, to prevent unacceptable impact of such fishing practices on that region and to ensure the conservation of the living marine resources of that region.

VI. REVIEWS BY REGION

75. The main existing large-scale driftnet fisheries are the albacore fisheries in the North Pacific, South Pacific and Indian Oceans, the squid and salmon fisheries in the North Pacific, and the fishery for swordfish in the Mediterranean.

A. North Pacific

1. Description of the fisheries

76. There are three large-scale pelagic driftnet fisheries in the North Pacific.

(a) Salmon

77. Japan has been conducting an offshore and high seas-fishery for salmon since the 1950s, regulated through negotiations with the United States of America and Canada within the International North Pacific Fisheries Commission and bilaterally between Japan and the Soviet Union. Those countries are the major "States of origin" for Pacific salmon. There are two types of salmon driftnet fisheries, one using a mothership and the other being land-based. The effort in those fisheries has decreased steadily, particularly since 1987. The number of vessels and their approximate size operating in 1989 were 56 boats of about 127 gross registered tons (GRT) for the mothership types and 156 boats ranging from 30 to 127 GRT for the land-based fishery. The fishery, which mainly operates from June to July, is limited by area. The catch in 1989 was about 2,200 tons of salmon in the mothership fishery and 7,700 tons in the land-based fishery.

(b) Squid

78. A driftnet fishery for squid developed in the late 1970s in the central northern North Pacific stimulated by incidental catches by salmon gillnetters after the close of the salmon season. This development of a gillnetting technology for squid was followed by a very rapid increase of effort, making this the most important Japanese offshore fishery. Later on, the Republic of Korea and Taiwan Province of China entered the fishery. In the Japanese fishery the vessel sizes range from 100 to 500 GRT, with a major size class around 230 GRT. There were 502 vessels engaged in the Japanese fishery in 1985 and there has been a decline to 457 vessels in 1990. In later years catches of squid have ranged between 150 and 200,000 tons. The nets, composed of individual 8 by 50 m panels ("tans") with mesh sizes restricted to 100-135 mm, are strung together in lengths of 40 to 60 km. However the entire nets used by one vessel are not continuous. These nets consist of several sets of nets. One set (with a length of about 5 km) consists of fishing nets with gaps of about 100 to 1,000 metres. Nets are set on the surface or sunk to depths up to 10 m before dusk and are retrieved before dawn. The Japanese fishery is regulated by effort, season and area. The Korean participation in this fishery had by 1987/88 expanded to about 140 vessels of approximately 350 GRT, while the Taiwanese fleet had about 100 vessels in 1987 and nearly 170 in 1988. A total of about 770 vessels took part in the fishery in 1988.

(c) Albacore

79. The third fishery, the Japanese large-mesh fishery targeting on albacore, has its origin in a 100-year-old fishery in the coastal waters of Japan that expanded as a large-scale offshore operation in the North Pacific in the mid-1970s and later also in the South Pacific in the mid-1980s. The major fishing seasons are from January to May in the North Pacific and December to February in the South Pacific.

The number of vessels operating in 1988 was 459, ranging from 100 to 500 GRT with a reported total catch of about 5,000 tons of albacore. There is also very minor amount of fishing by United States driftnet vessels for albacore in the eastern Pacific in the high seas area adjacent to the exclusive economic zone of the United States. 22/

2. Conservation and management issues

80. In the United States, the Fishery Conservation and Management Act of 1976, 23/ does not include any provision generally prohibiting the use of large driftnets by anyone within the exclusive economic zone and by United States boats outside the zone. However, several regulations enacted under the Act restrict or forbid the use of driftnets for certain fisheries and/or regions. Thus, pursuant to bill 50 CFR (Code of Federal Regulations) 685.21, fishing with driftnets for billfish and associated species in the exclusive economic zone off the coast of Hawaii is prohibited to United States vessels except for scientific purposes. In order to complement that text, the state of Hawaii recently enacted a ban (Hawaiian Revised Statute 188/30.5) on the possession or use of driftnets within the state's three-mile seaward boundary. Other federal instruments may affect driftnetting in the waters under United States jurisdiction. This is in particular the case of the Endangered Species Act, the Migratory Bird Treaty Act and the Marine Mammal Protection Act in relation to the taking of protected animals that necessarily occurs in the course of large-scale driftnet operations.

81. Based on the provisions of the Marine Mammals Act, in 1988 a United States District Court order enjoined the United States Government from issuing marine-mammal incidental-take permits to Japanese mothership salmon fishermen. The ruling, which was upheld by the United States Supreme Court, denies to Japan's mothership salmon fishery the possibility to operate in the United States exclusive economic zone. As a consequence of that decision the catches of the fishery declined by about two thirds. Moreover the 1987, Driftnet Impact Monitoring Assessment and Control Act 24/ required the United States Government to negotiate agreements with those countries fishing on the high seas of the North Pacific with driftnets of 1.5 nautical miles or more. The Act also provided for trade sanctions against fishing products of those countries in case they had not concluded such an agreement by 29 June 1989.

82. In Canada, an indefinite moratorium on the use of large driftnets in the 200-mile zone was imposed in 1987.

83. Japan now prohibits the use of large driftnets within its 200-mile zone because of conflicts with other types of gear that were in use before the introduction of large driftnets.

84. The Soviet Union, according to its submission to the Secretary-General, dated 3 August 1990, has stipulated that the length of pelagic driftnets deployed by its vessels in waters outside or inside the exclusive economic zone may not exceed 3.7 km. Soviet authorities are recommending that fisheries organizations not engage in work geared to the modernization of large-scale pelagic driftnet fishing

because the use of such fishing methods in the oceans causes serious harm to the marine fauna, in particular anadromous species.

85. There is no international fisheries organization for the high seas fisheries of the North Pacific in general. The International North Pacific Fisheries Commission (INPFC), an organization established in 1952 by Canada, Japan and the United States, is empowered to recommend certain management measures with respect to salmon fishing operations only. Since 1952 the INPFC Convention prohibits Japanese vessels from fishing for salmon to the east of 1750 W longitude. The renegotiation of the Convention in 1978 resulted in a western retreat of the Japanese land-based and mothership fleets by about 500 miles. 25/ In addition, INPFC provides a forum for co-operation among the contracting parties with respect to the study, analysis and exchange of scientific information and views relating to the stocks of non-anadromous species of the North Pacific. The Commission is currently discussing the high-seas driftnet fishing issue on the basis of information obtained through research activities of each nation. At the Commission meeting in November 1989, the three nations agreed that a whole day should be dedicated to discussing squid driftnet fishing in the North Pacific during the Commission's annual meeting scheduled to be held in November 1990. Under article IV of the INPFC Convention, as amended in 1978, the three contracting parties undertook to work towards the establishment of an international organization with broader membership and dealing with species other than anadromous. No agreement on that issue has been reached so far.

86. The question of the implementation of General Assembly resolution 44/225 was considered at the third session of the Soviet Union-United States intergovernmental consultative committee on fisheries questions held at Washington, D.C., in March 1990. The two sides exchanged views on the actions they had taken to implement the resolution and discussed potential areas for co-operation in the field in view of the forthcoming review on the matter by the General Assembly at its forty-fifth session. With regard to the conservation of anadromous species in the high seas, the United States and the Soviet Union recently proposed a multilateral convention for the conservation of anadromous stocks of fish in the North Pacific. The proposed convention reflects the view that the harvesting of Pacific salmonids on the high seas is irrational and wasteful.

87. The fishery for salmonids of Soviet Union origin on the high seas of the North-West Pacific is regulated by a Japan-USSR Joint Fishery Commission established by the Agreement on Fishery Co-operation, which was concluded by the two countries in 1985. For 1990 this Commission agreed that fishing should be conducted exclusively by use of driftnets and that other gears and fishing methods would be prohibited. The nets deployed by simple vessels must not exceed 15 km (10 km for small vessels). The Commission also regulated the minimum distance between sets of driftnets at sea and the minimum mesh size to be used (from 65 mm to 55 mm depending upon the size of the vessels). Furthermore, the Commission specified maximum catch limits of salmon to be taken on the high seas by the Japanese driftnet fleet. Those catch limits were drastically reduced in recent years.

88. The total landings of all species of salmon in recent years are close to the historical high levels of catch of almost 800,000 tons that occurred from 1927 to 1933, indicating that in general salmon stocks are healthy. 26/ The incidental by-catch of cetaceans represents, however, a management problem with respect to the conduct of the fishery.

89. Comprehensive assessments of the effect of the driftnet fisheries for squid on the targeted species are not yet available. Records of mean catch rates of squid in the Japanese fishery show a decline early in the fishery, but no special trend from 1984 to 1988. Incidental by-catches of fish, marine mammals and birds have, however, caused considerable problems. In attempts to alleviate the salmon by-catch problem, Japan introduced a number of regulatory measures in the fishery starting in 1981. They include, inter alia, licensing requirements, limitations by season and area and gear specifications. According to its submission dated 19 September 1990, the Republic of Korea has adopted a series of regulatory measures beginning 1984 applicable to this region. A particular feature of the regulations is the practice of a northern limitation of the fishing area, which varies seasonally and is adjusted to an ecological boundary between the more northern distribution of salmon and the more southern of the squid. Canada has objected and continues to object to the recent northern extensions of the squid fisheries in the North Pacific. In addition, the Republic of Korea has limited the number of licensed driftnet vessels operating in the North Pacific to 160 in the 1990 fishing season in order not to exceed the level of fishing activities in 1989. In November 1989, the Taiwanese authorities, according to information provided by the Co-ordination Council for North American Affairs, announced a ban on building new driftnet vessels and in July 1990, they established a buy-back programme with a special fund of $US 20 million annually for five consecutive years to buy back old driftnet vessels.

90. However, in view of the large effort that continued to be expended in the squid driftnet fisheries, insufficient information about the amount of salmonids of North American origin and of marine mammals and birds intercepted, and uncertainties regarding the proper enforcement of regulations, the United States and Canada considered the situation of the North Pacific fisheries to be unsatisfactory. An important step towards a solution to those problems was taken when Japan, the Republic of Korea and Taiwan Province of China accepted to conclude co-operative monitoring and enforcement agreements with the United States and, in the case of Japan, Canada. Those agreements provide, inter alia, that (a) satellite transmitters will be placed on driftnet vessels to allow for real-time location monitoring, (b) time and area restrictions for the squid fleet will be continued to minimize interceptions of salmonids, (c) Japanese, Taiwanese and Korean enforcement vessels will be deployed to patrol the driftnet fishing grounds, (d) there will be an exchange of enforcement observers, and (e) gear and vessels will be marked for ease of identification. Japan has confirmed that it has taken measures consistent with those required under the agreements.

91. On 26 June 1989, the United States, Canada and Japan reached an agreement for the monitoring and regulation of the Japanese squid driftnet fishery in 1989. The pilot monitoring programme in that year consisted of 9 United States, 5 Canadian and 32 Japanese observers on 32 Japanese squid vessels. A summary report of catch and by-catch rates from this programme was made available in July 1990.

92. On 12 April 1990, the United States, Canada and Japan concluded a similar, but expanded, agreement for 1990. Under this monitoring agreement (a) 35 United States, 10 Canadian and 29 Japanese scientific observers will be placed on 74 squid vessels to monitor 4,380 observations, (b) 12 North American and 12 Japanese scientific observers will also monitor the operations of 24 large-mesh driftnet vessels, and (c) 7 North American scientists will participate in four research cruises in the squid driftnet fleet and one in the large-mesh driftnet fleet. The summary report of catch and by-catch rates from the 1990 Japanese observer programme is scheduled to be completed by 31 May 1991.

93. Under the enforcement programme, the 1989 time and area restrictions for the squid fleet will be continued in 1990 to minimize interceptions of salmonids. Those boundaries are to be further restricted in 1991 if warranted by the scientific data collected.

94. On 24 August 1989, the American Institute in Taiwan, representing the American people, concluded a driftnet agreement with Taiwan Province of China. The co-operative programmes established for 1990 under this agreement include (a) verification by Institute enforcement consultants that such vessels are complying with agreed regulations and (b) 14 scientific observers from the Institute and 10 from the Co-ordination Council for North American Affairs placed on 24 Taiwanese driftnet vessels. The summary report of catch and by-catch rates from the observer programme of Taiwan Province of China will be prepared by 31 May 1991.

95. The United States concluded a similar agreement for the North Pacific Ocean with the Republic of Korea on 2 October 1989. This agreement provides that (a) 13 scientific observers each from the United States and the Republic of Korea will be placed on 26 Korean squid driftnet vessels in 1990 and (b) the United States Coast Guard will verify that such vessels are complying with agreed fishing regulations. The summary report of catch and by-catch rates from this observer programme will be completed by 30 June 1991.

96. The expanded programme for data collection, inspection, control and observer schemes, both national and international, to be carried out under those agreements will greatly improve the information base for the fisheries. The implementation of the programme is considered as a basis for gathering statistically reliable data as stipulated in paragraphs 2, 3 and 4 (a) of General Assembly resolution 44/225. The results of the 1989 joint observer programme (Japan, Canada, the United States) have been reported but have as yet not been evaluated. The simple data show that, as previously reported, pomfret dominate the fish by-catch and that some interception of albacore tuna occurs. The catch of salmonids by vessels covered by the observer programme was low in 1989. The observations further indicate that the rate of interception of marine mammals was lower than shown in some previous data. The interpretation of that is, however, uncertain. A more precise assessment of the situation can be made only after the results of the expanded ongoing research programme are known.

97. Until recently there was no concern regarding the state of the North Pacific albacore stock. The estimate of maximum sustainable yields using data up to 1985

ranged from 86,000 to 136,000 tons, with an actual catch of 65,000 tons in 1985. A recent analysis showing declining catch rates in some components of the fishery and an apparent low abundance of younger age classes (3 and 4), which constitute an important part of the surface fisheries, has given some cause for alarm. There is one view that the cause of the decline is the increased effort in the squid driftnet fisheries through incidental by-catch of young albacore. There is also an opinion that the observed decline may be due to environmental phenomena such as El Niño. 27/ A joint study by scientists from Japan, the United States and other countries is attempting to resolve the problem. Meanwhile, Japan has undertaken to modify regulatory measures in the albacore fishery, including limits of the fishing grounds and periods. From August 1990, the Japanese vessels engaged in this fishery on the high seas were placed under a limited entry licence scheme. Under this scheme the number of Japanese licensed vessels will not increase.

3. Assessment of the situation

98. The targeted species of the high-seas driftnet fisheries in the North Pacific are salmon, squid and albacore. There are indications that in general salmon stocks in the North Pacific are healthy. 28/ Driftnet interception of salmons of North American origin has been a matter of concern for Canada and the United States. 29/ The fishery effect on the stock of squid is uncertain, but the high effort over the past five years has shown wide annual fluctuations but no clear trend with respect to catch rates or catches. A recent decline in the stock of North Pacific albacore is thought either to be the effect of interception of young age groups in the squid driftnet fishery or to be caused by an environmental change.

99. The incidental by-catches in the fisheries give, however, cause for additional concern. There are fish by-catches of salmon and pomfret in the squid fisheries and of billfishes and others in the fishery directed at albacore. By-catches of marine mammals and birds occur in all three fisheries and remain a matter of concern, as is the case for several other fisheries in the region. More information is becoming available on the amounts of the various species intercepted, but reliable assessments of the impact of the mortalities on the affected stocks are not yet available. 30/ For some stocks, one of them being the fur seals, such assessments may become available in the near future, for others it may be a question of the medium- or long-term future before such information is at hand.

100. Negotiations are currently being conducted between the Governments of Canada, China, Japan, the United States and the Soviet Union with a view to establishing a Pacific international commission for the exploration of the sea, which would focus on scientific co-operation and provision of scientific advice, but would not have fishery management powers or responsibilities. If realized, such a forum would greatly facilitate the provision of an improved scientific basis for the understanding of the driftnet fisheries of the North Pacific ocean.

B. South Pacific

1. Description of the fisheries

101. Albacore tuna is the main targeted species of the driftnet fisheries in the South Pacific, which is also caught by other gears so that several fisheries interact and cause conflict. The historic gear was longlines that fished adult albacore, but, according to the submission of the Government of New Zealand, over the past decade increasing quantities have been taken in a surface fishery for the younger component of the stock by trolled lines and driftnets.

102. Longline fishery was started by Japan and the Republic of Korea in the 1950s followed by Taiwan Province of China in the late 1960s and some South Pacific countries in the 1970s. The longline gear consists of up to 110 km of buoyed hooked line fished in the deeper parts of the surface waters.

103. Troll fishery was started by New Zealand in the mid-1970s and expanded considerably in 1988 when a total of 54 vessels, most of them from the United States, used this gear. Troll fishing involves fishing 10 to 20 separate lines from the stern and outriggers.

104. Japanese vessels started exploratory driftnet fishing in the South Pacific in the early 1980s. By the mid-1980s about 20 vessels took part in the fishery, which was mainly conducted in the region of the sub-tropical convergence zone (STCZ), a relatively small, highly productive area between 30 and 40 degrees South latitude. Over a few years there was a rapid expansion of effort in this fishery with 20 vessels from Japan and 7 from Taiwan Province of China in the 1987/88 season increasing to 60 from Japan, between 60 and 120 from Taiwan Province of China and an exploratory vessel from the Republic of Korea in the 1988/89 season. The effort in the 1989/90 season was considerably reduced, according to preliminary assessments, to a total of about 40 vessels. 31/ The driftnets, which are set at dusk for night soak, vary between 20 and 55 km in set length and hang 10-15 m below the surface. Their mesh size range from 160 to 200 mm.

105. Annual catches of the longline fishery ranged between 20,000 and 35,000 tons in the 1980s. The surface fishery took an additional 1,000 to 6,000 tons up to 1987, but increased to an estimated 34,000 to 59,000 tons in 1989, of which 25,000 to 49,000 tons was from the driftnet fishery. 32/

2. Conservation and management issues

106. In the United States, the federal legislation on Western Pacific pelagic fisheries is equally applicable to the exclusive economic zones off the coast of American Samoa, Guam and other United States territories.

107. In Australia, according to fisheries notice N.AFZ1 of 25 July 1989, the use of any pelagic gillnet or driftnet more than 2.5 kilometres in length is prohibited in all "proclaimed waters" of the Australian fishing zone.

108. In 1989, New Zealand, in its Fisheries (Driftnet) Regulation of 1989 and its Exclusive Economic Zone (Driftnet) Regulations of 1989, prohibited the use or possession of driftnets more than 1 kilometre in length in waters under its jurisdiction.

109. Each party to the Wellington Convention (see above para. 16) undertook to forbid the use of driftnets more than 2.5 kilometres in length and the transshipment of fish taken with such driftnets within the areas under their jurisdiction. Thus, the Cook Islands, in the Marine Resources Act, 1989, of 22 December 1989, prohibited all fishing activities in waters under its jurisdiction involving the use of driftnets more than 2.5 kilometres long, including support and transport activities.

110. International fisheries organizations of the region involved in the driftnet issues include the South Pacific Forum Fisheries Agency (FFA), the South Pacific Commission (SPC) and the Indo-Pacific Fisheries Commission (IPFC). In October 1989, the twenty-ninth South Pacific Conference called for an immediate ban on the practice of pelagic drift-gillnet fishing in the South Pacific Convention region 33/ to prevent severely adverse, perhaps irremediable, effects on SPC region fisheries and to allow time for the development of comprehensive fishery management programmes. IPFC 34/ considered the matter at its twenty-third session in May 1990 but did not formulate any specific recommendation. Action taken within the framework of FFA 35/ is described in more details below.

111. It should be recalled that General Assembly resolution 44/225 includes special provisions for the South Pacific. In paragraph 4 (b), the Assembly recommended that all members of the international community agree to take immediate action to reduce progressively large-scale pelagic driftnet fishing activities in the South Pacific region with a view to the cessation of such activities by 1 July 1991, as an interim measure, until appropriate conservation and management arrangements for South Pacific albacore tuna resources are entered into by the parties concerned.

112. The maximum sustainable yield from the South Pacific albacore stock in a fishery that mainly makes use of the older part of the population, such as the longline fishery, has roughly been assessed at 35,000 tons. Scientists recognize that additional exploitation of younger fish, e.g., by surface fisheries with trolled lines or driftnets, may increase the total maximum sustainable yield from the stock, but it has not yet been possible to quantify this addition and thus estimate the total stock potential. Provisionally, a target of 10,000 tons has been suggested for the surface fishery.

113. The rapid increase of the driftnet effort in the 1988/89 season approximately doubled the total catch from the stock by increased fishing pressure on the younger fish and grossly exceeded the maximum sustainable yield proposed by scientists from all interested parties in 1986, according to the submission from New Zealand. This caused serious concern to South Pacific island States over the sustainability of the albacore stock under that new state of exploitation. If one type of fishing severely reduces the number of young fish in the stock, then fewer adult fish will be available for other fisheries and the rejuvenation of the stock. Also, other effects of the driftnet fishery such as by-catches and waste through drop-outs

(estimated by some to be as high as 40 per cent, according to the submission from Australia) and possible "ghost-fishing" from lost netting gave cause for alarm. Those concerns were expressed in a series of consultations that started in November 1988 and involved States from the region as well as certain Asian fishing nations and other nations with interests in the region. The activities culminated in the conclusion of the Wellington Convention, which prohibits fishing with driftnets of more than 2.5 km in length in the South Pacific and is based on the Tarawa Declaration (see paras. 11 and 16). Twelve South Pacific countries have now signed the Convention. When the Convention enters into force, the parties to it would be legally bound to prohibit their nationals and vessels from driftnetting anywhere in either 200-mile zones or the high seas within a defined Convention area. They would also be bound to prohibit the use of driftnets and the transshipment of driftnet catches within their 200-mile zones.

114. To enable distant-water driftnet fishing nations and other nations with some interests in joining the Convention to accept the relevant provisions, the countries and territories of the region at the same meeting endorsed two draft protocols for that purpose. Draft protocol I, open for signature by any State whose nationals or vessels fish within the Convention area, would bind parties to prohibit their nationals and vessels from driftnetting within the Convention area. Draft protocol II, open for signature by any State on or within the Pacific rim, would bind parties to it to take the same action and, in addition, to prohibit the use of driftnets and the transshipment of driftnet catches within their own 200-mile zones. The draft protocols are to be discussed with countries eligible to sign with a view to their formal adoption later this year.

115. Consultations have also been taking place between South Pacific countries and other countries, including Canada, Japan, the Republic of Korea and the United States, on the establishment of a management régime for South Pacific albacore tuna. Although hampered by the non-attendance of interests of Taiwan Province of China, progress has been made in two rounds of consultations - in November 1989 and March 1990. At the second round of consultations a provisional outline of a management régime for the South Pacific albacore stock was set on paper to serve as guide for further negotiations. The outline describes a régime that is open to coastal and distant water fishing nations, encompasses the total geographical range of the albacore stock, has two main components, a management body and a scientific advisory group, both served by a secretariat, and whose functions include the adoption of various types of management measures and possible measures for surveillance and enforcement. At that meeting, South Pacific countries "agreed that the practice of driftnet fishing would never be authorized under such a management régime" (see A/44/PV.85). The régime was to be further discussed at a meeting in October 1990.

116. As to non-targeted catches in the driftnet fishery, certain fish species, such as skipjack and pomfret, may be common, but do not represent major management problems. Cetacean by-catch is, however, a matter for concern also in this region because of an unacceptably high dolphin by-catch. 36/ The incidental take of cetaceans in the Tasman Sea albacore fishery for 1988/89 has been estimated to include between 7,000 and 19,000 dolphins and small whales. Of particular concern is the impact on rare or endangered species such as the southern bottlenose whale,

which is rarely recorded in this region but which has been reported entangled in driftnets in the Tasman Sea. A Taiwanese driftnet fishery for shark, mackerel and longtail tuna, operating in the Arafura and Timor Seas north of Australia from 1974 on, was stopped or relocated in 1986 when driftnet fishing with nets exceeding 2.5 km was banned within the northern Australian 200-mile fishing zone because of an unacceptably high dolphin by-catch. That ban was extended in 1989 to cover all waters of the Australian fishing zone. Some preliminary results of gear experiments to reduce mammal and bird interception in driftnets were obtained in a recent small-scale research cruise undertaken in the Tasman Sea by the Japan Marine Fishery Resource Research Center. 37/ It is not clear whether such gear modifications would be effective in commercial driftnet operations.

3. Assessment of the situation

117. Scientists in the area have repeatedly reviewed the albacore stock in meetings of the South Pacific Albacore Research Group, a group sponsored by the South Pacific Commission and composed of scientists from the region, including Australia and New Zealand, as well as from the United States, Canada, France, Japan and Taiwan Province of China. They have, however, not yet been able to make a comprehensive assessment of the current state of the stock, mainly due to lack of statistical and biological data from important participants in the fishery. However, it seems clear that the uncontrolled and rapid expansion of effort in the driftnet fishery in 1988/89 reached dangerous levels and represented a risk of overfishing the stock.

118. Since June 1989, according to its submission to the Secretary-General, the Republic of Korea has prohibited driftnet fishing in the South Pacific. The reductions in the driftnet fleet in the 1989/90 season will lessen the impact on the albacore stock, but the effectiveness of those measures cannot yet be determined. Japan has, however, already decided to suspend driftnet fishing in the South Pacific from the 1990/91 fishing season, one year ahead of the date recommended in the General Assembly resolution. The Government of Japan has stated that this measure will be continued until such time as appropriate conservation and management arrangements for South Pacific albacore tuna resources, as referred to in resolution 44/225, are entered into and appropriate regulatory measures for the driftnet fishing are established under such arrangements by the parties concerned. It should be noted that South Pacific countries, according to the submission from Australia to the Secretary-General, have specifically opposed the inclusion of driftnet fishing in any management régime for southern Pacific albacore stock.

119. It is to be hoped that the efforts to create a management system for the stock of albacore tuna in the South Pacific will meet with success. The non-participation so far of Taiwanese interests is a difficulty, as is the lack of statistical and biological data from that part of the fishery. It has been reported that Taiwanese driftnet fishing vessels have been reduced from 64 in 1989 to 11 in this current season, and that Taiwanese driftnet fishing would cease by 1 July 1991. The reduction of the surface fisheries following the reduced effort in the 1990/91 season and the expected cessation of driftnetting from 1 July 1991 should provide a good opportunity for the parties to produce reliable assessments of the albacore

stock and to create an active management régime for the fisheries that will ensure sustained use of the resource and the conservation of the other components of the ecosystem.

C. Indian Ocean

1. Description of the fisheries

120. In the Indian Ocean a Taiwanese fleet conducts a high-seas driftnet fishery for albacore tuna. The albacore fishery in this area was developed by Japanese longline vessels in the 1950s and expanded into larger parts of the Ocean when the Republic of Korea and Taiwan Province of China joined the longline fleets in the 1960s. The longline catch peaked at about 27,000 tons in 1974 and then ranged between 10,000 and 22,000 tons up to 1984. From 1985 there was a partial shift of effort to driftnetting by Taiwan Province of China. The total catch of albacore in the Indian Ocean was about 25,000 tons in 1987 and about 22,000 tons in 1988. The catch was split about equally between longlines and driftnets. A total of 130 vessels are reported to have participated in the driftnet fishery in 1988. Records of catch composition showed a fish by-catch of 30 per cent sharks and 10 per cent tunas and billfishes in the data for the 1986/87 season, but less than 10 per cent total fish by-catch in the 1987/88 season. No data on interception of marine mammals are available from this fishery.

121. Driftnetting is also an important fishing method in the artisanal and semi-industrial fisheries of a number of the coastal countries in the Indian Ocean. Such fisheries, carried out mostly over the outer shelf and slope in waters under national jurisdiction, are reported from Bangladesh, India, Indonesia, the Islamic Republic of Iran, Malaysia, Oman, Pakistan, Sri Lanka, Thailand and Yemen. More than 90,000 tons of tunas, seerfishes and billfishes were caught in 1988 by those fleets, which use nets from 1.5 km to over 10 km in length depending upon the region. Detailed information is available for some of those fisheries. The Sri Lanka fishery is conducted by a fleet of about 2,000 boats of 3.5 to 4 tons and 70 of an 11-ton class. The total catch is 20,000 to 30,000 tons with skipjack and yellowfin tuna as targeted species. A recorded 30 per cent by-catch (in 1988) was dominated by sharks and billfishes with small amounts of seerfishes. Estimates of the number of small cetaceans killed in drift gillnets per year range from about 8,000 to 42,000 individuals. 38/ A considerable increase of the offshore fishery within the exclusive economic zone is projected in the national fisheries development plan of Sri Lanka for the period from 1990 to 1994. In Pakistan, drift gillnets ranging up to over 10 km in length and vessels of approximately 50 GRT are used to catch skipjack, yellowfin and billfishes.

2. Conservation and management issues

122. In 1985, Australia prohibited the use of driftnets longer than 2.5 km across the northern Australia fishery zone. In July 1989, the Government extended this prohibition to cover all waters of the fishery zone.

123. Japan, which has never engaged in driftnet fishing in the Indian Ocean, has declared that it has taken steps to prohibit large-scale pelagic driftnet operations by its nationals in the Indian Ocean.

124. The Indian Ocean Fishery Commission (IOFC) 39/ has discussed the use of large-scale driftnets in the Indian Ocean at various meetings of the Commission and its subsidiary bodies. The creation of a special Indian Ocean tuna commission is being negotiated, but currently problems of the tuna fisheries are handled by the IOFC Committee for the Management of Indian Ocean Tuna.

125. A recent assessment of the Indian Ocean albacore showed a sustained yield of 19,000 to 25,000 tons, that is, the level of current catches. The judgement of the scientists is, however, that that assessment should be interpreted with caution and that further analytical work is required. The effects on the stock of the recent shift in the fishery from longline to large driftnets are not yet apparent in the assessment. 40/ There is also concern about the effect of the high seas driftnet fishery on the stock of southern bluefin tuna.

126. In view of the limited data available on the albacore stock the IOFC Committee for the Management of Indian Ocean Tuna, at its eleventh meeting in July 1990, could not recommend any management measures for the fishery based upon statistically sound analysis. In view of that and of the absence of data on by-catches of marine mammals the Committee recommended that a moratorium as specified in General Assembly resolution 44/225 be imposed on all large-scale pelagic driftnet fishing on the high seas of the Indian Ocean by 30 June 1992, with the understanding that such a measure could be lifted should effective conservation and management measures be taken based upon statistically sound analysis to be jointly made by concerned parties of the international community with an interest of the fishery resources of the Indian Ocean, to prevent unacceptable impact of such fishing practices in the Indian Ocean and to ensure the conservation of the living marine resources of the Indian Ocean. Among the possible measures to be taken urgently, the Committee recommended that observers be placed on board vessels using large pelagic driftnets on the high seas of the Indian Ocean. 41/

127. With reference to the significant driftnet fisheries in areas under national jurisdiction, the countries concerned recognize that a large number of small driftnets may have a similar impact on targeted and non-targeted species as that of a small number of large driftnets. With the introduction of new synthetic fibres fishermen had increased, sometimes significantly, the length of the nets used. Incidental catches of marine mammals occur in those fisheries and large numbers are reported to have been taken in certain situations.

3. Assessment of the situation

128. From the available information, it seems likely that the high-seas driftnet fishery in the Indian Ocean will continue to be limited to that conducted by Taiwanese vessels. Although some data on the Taiwanese driftnet fishery and its impacts have become available, they are not considered adequate as a basis for a management system and the imposition of a moratorium on high-seas driftnetting from

1992 on has been recommmended by the competent regional fishery organization. It is expected, however, that there will be a further opportunity to review the situation at the twelfth session of the IOFC Committee for the Management of Indian Ocean Tuna, scheduled for the first half of 1992.

129. The Indian Ocean Fishery Commission has recently reviewed the status of the stocks of Indian Ocean tunas. On the basis of the conclusion of the experts there is no special cause for concern over the impact of the driftnet fisheries for tuna and tuna-like species in waters under national jurisdiction in the Indian Ocean. 40/ There is, however, a need for further investigations of by-catches and by-catch stocks. Those fisheries are very different, in the socio-economic sense, from the industrial high seas activities, being artisanal or semi-industrial and involving very large numbers of units and fishermen. The view of the countries concerned is that the solutions for regulations being contemplated in other regions (e.g., in the South Pacific) with regard to the maximum size of driftnets might not be applicable to those fisheries. 41/

D. Atlantic Ocean

1. Description of the fisheries

130. Several small discrete driftnet fisheries are being conducted in waters under national jurisdiction in the Atlantic Ocean. Off western Greenland salmon are caught in a small seasonal driftnet fishery. The salmon is of North American and European origin and total catches do not exceed 1,000 tons per year. A coastal Norwegian salmon driftnet fishery, which developed fairly recently, was provisionally prohibited from the 1989 season onwards. An offshore driftnet fishery for salmon in the Baltic is mainly conducted by driftnet. This is an historic fishery with participation of most of the nations surrounding the Baltic. Sets of nets up to 18 km in total length were used, but gear restrictions have now caused some reduction of set lengths. Annual catches are 3,000 to 4,000 tons. On 13 April 1990, the United States Fishery Management Plan for the coastal migratory pelagic resources of the Gulf of Mexico and the South Atlantic prohibited the use of drift gillnets for all managed coastal migratory pelagic fishes.

131. A new driftnet fishery for albacore tuna was started in the Bay of Biscay by French vessels in 1986 and is being conducted both in waters under national jurisdiction and on the high seas. In 1989, 37 vessels (of 20 m length) participated, using set lengths of 2 to 6 km and taking a total catch of 1,400 tons in that season. The fishery for North Atlantic albacore has given a yield of between 30,000 and 60,000 tons since the 1950s with the main effort by baitboats and trolling from France and Spain, and since the mid-1960s also by high-seas longline fleets especially from Taiwan Province of China. The longline effort has declined sharply in recent years. In early August 1990, newspapers in the United States reported that Taiwanese fishing vessels had started large-scale pelagic driftnet fishing in the western central Atlantic. A ban on the operation of Taiwanese driftnet fishing in the Atlantic Ocean was announced on 16 February 1990.

132. According to unofficial information, six large-scale pelagic driftnet vessels flying the flag of the Republic of Korea were seen in July 1990 by fishermen on the high seas north-east off the Azores. It should be pointed out that the Government of the Republic of Korea has denied this information, reconfirming that no Korean vessel is involved in driftnet fishing in the Atlantic Ocean. It is expected that the matter of large-scale driftnet fishing in the Atlantic will be discussed at the forthcoming meetings of the Western Central Atlantic Fishery Commission and of the International Commission for the Conservation of Atlantic Tuna.

133. Albacore tuna is considered to have separate stocks in the North and South Atlantic. Driftnetting has so far not been reported from the South Atlantic albacore fishery in which between 20,000 and 30,000 tons are caught each year, mainly by longline.

2. Conservation and management issues

134. United States legislation does not prohibit the use of large-scale pelagic driftnets. However, the regulation on Atlantic billfishes (50 CFR (Code of Federal Regulations) 644.22) prohibits the possession or retention, within waters under United States jurisdiction, of a billfish by a vessel with a driftnet aboard and commands the release of any billfish incidentally caught by a driftnet.

135. The Government of Trinidad and Tobago in a submission to the Secretary-General dated 2 October 1990, expressed concern about the expansion of large-scale driftnet fishing in the Atlantic and stated that it had imposed a ban on large-scale driftnet fishing in its national waters and a prohibition of landing rights to vessels with large-scale driftnet equipment (see also A/45/PV.20).

136. In Spain, fishing for swordfish with any type of net is not authorized. Moreover, according to the treaty of accession of Spain to the EEC Spanish vessels cannot use any type of gillnet in the Portuguese waters of the Atlantic Ocean; according to the treaty of accession of Portugal to the EEC, Portuguese vessels cannot use any type of gillnets in the Spanish waters of the Atlantic Ocean.

137. In Norway, a total ban on driftnet vessels fishing for salmon was recently proclaimed. This ban is effective from the 1989 season onwards and concerns all vessels operating in Norwegian waters.

138. In South Africa, according to a regulation enacted under the Sea Fishery Act, 1988, no person shall land or transship in any port or fishing harbour in the country any tuna, including all species of thunnus, allothunnus, euthunnus or katsuwonus that have been caught by means of gillnets nor use any driftnet with a mesh measuring less than 44 mm or more than 64 mm stretched, measured from inside of knot or joint to inside of knot or joint, for fishing.

139. The Government of Japan stated in its submission that it has taken measures effective 15 August 1990 to prohibit Japanese large-scale driftnet fishing in the waters of the Atlantic Ocean.

140. The minor coastal western Greenland fishery is well controlled and there is thus no basis for a development of large-scale driftnet fishing for salmon in that area. The Baltic salmon fishery is regulated by the countries concerned within the International Baltic Sea Fishery Commission, taking into account advice provided by the International Council for the Exploration of the Sea. For the regulatory area of the North West Atlantic Fisheries Commission (NAFO), no pelagic driftnetting on the high seas is reported. At its twelfth annual meeting in September 1990, NAFO endorsed General Assembly resolution 44/225.

141. The International Commission for the Conservation of Atlantic Tuna (ICCAT) keeps the state of the tuna stocks in that area under review. The development of driftnet fisheries was briefly discussed at the 1989 annual meeting of the Commission. South Africa, in particular, drew the attention of the Commission to the fact that its fisheries inspectors had observed foreign vessels with large driftnets aboard transshipping fish, including tunas, in the port of Cape Town. Some members expressed concern about the use of this fishing technique because of its potentially destructive nature. Others stressed the danger of misunderstanding the use of this gear and stated that driftnet fishing can and should be managed as any other fishing gear on a scientific basis.

142. The Organization of Eastern Caribbean States, in a declaration at Castries, Saint Lucia, in November 1989, resolved to establish a régime for the regulation and management of the pelagic resources in the Lesser Antilles region that would outlaw the use of driftnets (see A/45/64, annex).

143. The development of the French driftnet fishery for albacore has been closely followed by research. In analyses of statistical and biological data it is claimed that the driftnet fishery has only a minor impact on the resource and on the competing gears because the effort is low. Results of French research cruises indicated that the incidental by-catch of marine mammals and birds in this fishery is negligible because the nets are set with a surface gap. 42/

3. Assessment of the situation

144. In view of the existing ban on high-seas fishing for salmon in the North Atlantic there seems no cause for concern regarding the possible development of large-scale driftnetting for anadromous fish in this region. Nor does the Baltic salmon fishery give cause for worry, being provided with competent scientific advice and regulated by the countries concerned.

145. The newly developed French driftnet fishery for albacore represents a modest effort. Some international conflict has arisen over its interaction with other fisheries, and there is a need to consider such effects as well as the impact on the stock itself and on by-catch species. The state of the Atlantic albacore stocks will be evaluated by a working group of scientists set up under the Standing Committee of Research and Statistics of ICCAT, and a first assessment of the North Atlantic stock is expected for the Commission's annual meeting in late 1990 where other aspects of the driftnet fishery will also be considered. ICCAT recently adopted a special three-year research programme for albacore tuna.

E. The Mediterranean Sea

1. Description of the fisheries

146. Off most of the countries bordering the Mediterranean, the high seas begin very near the coast (6 to 12 miles). Therefore, high-sea driftnetting involves a number of rather small fishing vessels. Driftnetting is a traditional fishing method in this region, but there has been increased use of the gear in later years, mainly by fleets of small vessels. In the western Mediterranean the use of this gear is not very extensive. Some 10 to 40 artisanal Moroccan vessels fish seasonally for tuna with driftnets of 1 to 4 km in length. About 50 small Spanish vessels are reported to use driftnets between 1.5 and 3.5 km in length to take swordfish in the Gibraltar area, and two French vessels operate with driftnets about 1 km in length in the Gulf of Lions. 43/

147. A larger scale of driftnetting has been conducted in the central Mediterranean by Italian fishermen. Here more than 700 boats, the majority below 15 m in length, have fished seasonally with nets varying in length according to boat size from 2 to 40 km, with an average of 12 km. The total annual catch has been about 5,000 tons of swordfish and 1,000 tons of albacore. The by-catch included medium- and large-sized pelagic fish, turtles and large and small cetaceans. Official statistics reported about 100 marine mammals taken in 1988. This was thought to be an underestimate because of under-reporting and an observer programme was started to obtain more accurate data on incidental by-catches. Little information is available from the eastern Mediterranean, but in this part the use of driftnets appears to be only sporadic.

2. Conservation and management issues

148. In 1988 and 1989 the Italian Government took a series of measures aimed at freezing the number of licences and at limiting the length of the gear (maximum 2.8 km for coastal and 9.3 km for offshore fishing) and the fishing season. Subsequently, in July 1990, a decree suspended driftnetting for swordfish and albacore by all Italian nationals until the adoption of further measures in that respect (Gazzetta Ufficiale della Repubblica Italiana, 31 July 1990, p. 14). In order to compensate the losses supported by this sector, which provided employment for about 4,000 people, the Government has decided to allocate a compensation of 10 billion lire for each of the years 1990 and 1991 (ibid., 4 August 1990, No. 213).

149. The General Fisheries Council for the Mediterranean (GFCM) 44/ and its subsidiary bodies have started a process of investigating and evaluating the driftnet fishing in this region and its impacts. At a GFCM/ICCAT Expert Consultation on Evaluation of Large Pelagic Fishes in the Mediterranean, held at Bari, Italy, in June 1990, scientists concluded that further work and analysis were needed before reliable assessments of the state of the main stocks could be made. Pending the outcome of further research on those issues as well as on those of the by-catch problems, the Consultation recommended that driftnet fishing in the region was in need of regulation, particularly through limitations of the size of the nets and through licensing schemes controlling the fishing effort.

3. Assessment of the situation

150. Driftnetting in the Mediterranean differs from the oceanic industrial activities both in dimension and in socio-economic characteristics, as it is conducted only by countries from the region and mainly with small boats. The total effort exerted by many small units applying this effective gear can nevertheless be considerable and there is, therefore, a clear need in the Mediterranean to control and regulate the use of driftnets. The aims of such regulation should be to avoid as far as possible conflict with other fisheries, to adjust the use of the gear and the total effort to the sustained potentials of the fish stocks and to take into account the conservation of other resources affected.

151. Since the fisheries take place largely outside the territorial limits, their regulation must be discussed at the international level. Within the GFCM the countries of the region have already started investigations as well as discussions and consultations on the issues, and they have agreed upon a plan to follow-up this work for 1990-1991. In the mean time, Governments warned by the attention given to this matter in other areas and by General Assembly resolution 44/225 have already taken steps to control and regulate national driftnet fisheries.

F. Southern ocean

152. According to the Commission for the Conservation of Antarctic Marine Living Resources, gillnets are not used in the Convention area and as revealed from a discussion at a November 1989 meeting of the Commission, there are no current plans for their use by any member nation. An action by the Commission of some relevance is the introduction of a set of measures on avoidance of incidental mortality of Antarctic marine living resources, which includes maintaining records of lost fishing gear, inventories of the types and quantities of netting used in the Convention area and collecting derelict marine debris.

VII. CONCLUSIONS

153. Following the adoption of resolution 44/225 by the General Assembly, States, international organizations, regional fishery bodies and other governmental and non-governmental bodies have responded speedily to the recommendation contained therein. Many international organizations, both governmental and non-governmental, have endorsed the resolution. A number of Governments have taken action to give effect to the moratorium recommended in the resolution and some have brought forward the date prescribed in the resolution for the establishment of such a moratorium. However, the complete implementation of the provisions of the resolution requires further measures in the form of national legislation governing activities of the flag State's vessels on the high seas, international agreements and the adoption of internationally agreed practices, which may be subregional, regional or global in character.

154. In accordance with the resolution all interested members of the international community should continue to consider and, by 30 June 1991, review the best available scientific data on the impact of large-scale pelagic driftnet fishing and agree upon further co-operative regulation and monitoring measures, as needed.

155. The moratoria recommended by the General Assembly in all large-scale driftnet fishing on the high seas are to be implemented by 30 June 1992. Such moratoria will not be imposed or, if implemented, can be lifted should effective conservation and management measures be taken based upon statistically sound analysis to be jointly made by concerned parties of the international community with an interest in the fishery resources of the region, to prevent unacceptable impact of such fishing practices on that region and to ensure the conservation of the living marine resources of that region. In the South Pacific, the moratorium on all large-scale driftnet fishing on the high seas is, in accordance with resolution 44/225, to be implemented by no later than 1 July 1991. This moratorium is an interim measure, until appropriate conservation and management arrangements for South Pacific albacore tuna resources are entered into by the parties concerned.

156. The United Nations Convention on the Law of the Sea requires States to promote the conservation and management of the living resources of the high seas. All States concerned are required to participate in contributing and exchanging through competent international organizations available scientific information, catch and fishing effort statistics, and other data relevant to the conservation of fish stock. It is therefore essential that States engaged in large-scale driftnet fishing on the high seas should make available to other concerned States and international organizations all available data, including biological data, and specific data on incidental catches and population levels.

157. With the prohibition or curtailment of driftnet fishing in certain areas the tendency to increase or introduce such fishing in other areas of the high seas must be a cause for concern. Such expansion would be contrary to the resolution, in which the Assembly declared that further expansion of large-scale pelagic driftnet fishing on the high seas of the North Pacific and all the other high seas outside the Pacific Ocean should cease immediately, with the understanding that this measure would be reviewed subject to the conditions in paragraph 4 (a) of the resolution.

Notes

1/ Official Records of the Third United Nations Conference on the Law of the Sea, vol. XVII (United Nations publication, Sales No. E.84.I.3), document A/CONF.62/122.

2/ The State of Information on Large-Scale Pelagic Driftnet Fishing and its Impact on Marine Living Resources; a report to the Secretary-General prepared by FAO, August 1990.

3/ FAO, report of the twenty-fifth session of the Conference (Rome, 11-30 November 1989, para. 12).

Notes (continued)

4/ Report of the Expert Consultation on Large-Scale Pelagic Driftnet Fishing, Rome, Italy, 2-6 April 1990; FAO Fisheries Report No. 434, referred to hereinafter as FAO Fisheries Report No. 434.

5/ Members of NASCO are Canada, Denmark (in respect of the Faroe Islands and Greenland), EEC, Finland, Iceland, Norway, Sweden, the Union of Soviet Socialist Republics and the United States.

6/ These views are shared by several of the countries which replied to the Secretary-General note of 27 March 1990 (e.g., Canada, Australia, New Zealand and the United States.

7/ The New York Times, 30 April 1990.

8/ FAO Fisheries Technical Paper No. 222 (Definition and Classification of Fishing Gear categories).

9/ See Indian Ocean Fishery Commission, report of the eleventh session of the Committee for the Management of Indian Ocean Tuna, Bangkok, 9-12 July 1990, para. 58.

10/ FAO Fisheries Report No. 434, p. 55.

11/ International Legal Materials, vol. 19. p. 15.

12/ United Nations, Treaty Series, vol. 993, No. 14537.

13/ European Treaty Series No. 104; United Nations Registration No. 21159; United Kingdom, Command Papers, No. 8738.

14/ FAO document COFI: FT/III/90/Inf.6, Suppl.

15/ FAO Fisheries Technical Paper No. 222 and FAO Fisheries Report No. 434, para. 39.

16/ See Brian T. Coffey and Associated Ltd: "A preliminary assessment of the impact of driftnet fishing on oceanic organisms: Tasman Sea, South Pacific", January 1990, prepared for the Greenpeace Pacific Campaign.

17/ FAO Fisheries Report No. 434, para. 71.

18/ United Nations, Treaty Series, vol. 1046, No. 15749, p. 120.

19/ ST/LEB/SER.B/18, pp. 457-517.

20/ FAO Fisheries Report No. 434, para. 91.

21/ FAO Fisheries Report No. 434, para 115.

Notes (continued)

22/ Report of the Secretary of Commerce to the Congress of the United States on the nature, extent and effects of driftnet fishing in waters of the North Pacific Ocean pursuant to Section 4005 of Public Law 100-220, "The Driftnet impact monitoring assessment, and Control Act of 1987".

23/ Fishery Conservation and Management Act of 1976, Public Law 94-265 of 13 April 1976.

24/ Driftnet Impact Monitoring Assessment and Control Act of 1987, Public Law 100.20 of December 1987.

25/ Statement on High Seas Driftnet Fisheries in the North Pacific Ocean by the Province of British Columbia and the States of Alaska, Washington, Oregon, Idaho, California and Hawaii, October 1989, attached to the Canadian submission to the Secretary-General on large-scale pelagic driftnets, 31 August 1990.

26/ FAO Fisheries Report No. 434, para. 36.

27/ Ibid., para. 69.

28/ Ibid., para. 36.

29/ The submission by the Government of Canada indicates that the Japanese salmon fishery is scheduled to cease by 1994 in the Bering Sea.

30/ Canada estimates at 40,000 to 80,000 the number of marine mammals killed yearly in the squid driftnet fishery.

31/ According to a statement issued on 6 September 1990 by Taiwan Province of China, 64 driftnet fishing vessels operated in the South Pacific during the 1988/89 season, 11 driftnet fishing vessels operated in the South Pacific in the 1989/90 season and the fishery will cease by 1 July 1991.

32/ FAO Fisheries Report No. 434, pp. 54-55.

33/ Defined by SPC as the Pacific region in which are located the following countries and territories: American Samoa, Australia, Cook Islands, Federated States of Micronesia, Fiji, French Polynesia, Guam, Kiribati, Marshall Islands, Nauru, New Caledonia, New Zealand, Niue, Northern Mariana Islands, Palau, Papua New Guinea, Pitcairn, Solomon Islands, Tokelau, Tonga, Tuvalu, Vanuatu, Wallis and Futuna Islands, and Western Samoa.

34/ Members of IPFC are Australia, Bangladesh, Cambodia, France, India, Indonesia, Japan, Malaysia, Myanmar, Nepal, New Zealand, Pakistan, the Philippines, the Republic of Korea, Sri Lanka, Thailand, the United Kingdom of Great Britain and Northern Ireland, the United States of America and Viet Nam.

Notes (continued)

35/ Members of the FFA are Australia, the Cook Islands, the Federated States of Micronesia, Fiji, Kiribati, the Marshall Islands, Nauru, New Zealand, Niue, Palau, Papua New Guinea, Solomon Islands, Tonga, Tuvalu, Vanuatu and Western Samoa.

36/ It was stated in the submission by New Zealand that trolling, the other major fishing method used for juvenile albacore tuna, catches almost no species other than the intended target.

37/ FAO Fisheries Report No. 434, para. 40.

38/ See P. Dayaratne and J. de Silva. Drift gillnet fishery in Sri Lanka, paper submitted to the Expert Consultation on Stock Assessment of Tuna in the Indian Ocean, Bangkok, 2-6 July 1990 (FAO-IPTP TWS 90/19).

39/ Members of IOFC are Australia, Bahrain, Bangladesh, Comoros, Cuba, Egypt, Ethiopia, France, Greece, India, Indonesia, Iran (Islamic Republic of), Iraq, Israel, Japan, Jordan, Kenya, Kuwait, Madagascar, Malaysia, Maldives, Mauritius, Mozambique, Netherlands, Norway, Oman, Pakistan, Portugal, Qatar, the Republic of Korea, Saudi Arabia, Seychelles, Somalia, Spain, Sri Lanka, Sweden, Thailand, United Arab Emirates, the United Kingdom of Great Britain and Northern Ireland, the United Republic of Tanzania, the United States of America and Viet Nam.

40/ FAO, report of the Expert Consultation on Stock Assessment of Tuna in the Indian Ocean, Bangkok, 2-6 July 1990 (Document IOFC: TM/90/3).

41/ FAO, Indian Ocean Fishery Commission. Report of the eleventh session of the Committee for the Management of Indian Ocean Tuna, Bangkok, 9-12 July 1990.

42/ FAO Fisheries Report No. 434, para 40.

43/ Report of the GFCM/ICCAT Expert Consultation on Evaluation of Stocks of Large Pelagic Fishes in the Mediterranean Area, Bari, Italy, 21-27 June 1990.

44/ Members of GFCM are Algeria, Bulgaria, Cyprus, Egypt, France, Greece, Israel, Italy, Lebanon, the Libyan Arab Jamahiriya, Malta, Morocco, Romania, Spain, the Syrian Arab Republic, Turkey and Yugoslavia.

ANNEX

General Assembly resolution 44/225 entitled "Large-scale pelagic driftnet fishing and its impact on the living marine resources of the world's oceans and seas"*

The General Assembly,

Noting that many countries are disturbed by the increase in the use of large-scale pelagic driftnets, which can reach or exceed 30 miles (48 kilometres) in total length, to catch living marine resources on the high seas of the world's oceans and seas,

Mindful that large-scale pelagic driftnet fishing, a method of fishing with a net or a combination of nets intended to be held in a more or less vertical position by floats and weights, the purpose of which is to enmesh fish by drifting on the surface of or in the water, can be a highly indiscriminate and wasteful fishing method that is widely considered to threaten the effective conservation of living marine resources, such as highly migratory and anadromous species of fish, birds and marine mammals,

Drawing attention to the fact that the present resolution does not address the question of small-scale driftnet fishing traditionally conducted in coastal waters, especially by developing countries, which provides an important contribution to their subsistence and economic development,

Expressing concern that, in addition to targeted species of fish, non-targeted fish, marine mammals, seabirds and other living marine resources of the world's oceans and seas can become entangled in large-scale pelagic driftnets, either in those in active use or in those that are lost or discarded, and as a result of such entanglement are often either injured or killed,

Recognizing that more than one thousand fishing vessels use large-scale pelagic driftnets in the Pacific, Atlantic and Indian Oceans and in other areas of the high seas,

Recognizing also that any regulatory measure to be taken for the conservation and management of living marine resources should take account of the best available scientific data and analysis,

Recalling the relevant principles elaborated in the United Nations Convention on the Law of the Sea, a/

---

* Incorporating A/44/49/Corr.2.

a/ Official Records of the Third United Nations Conference on the Law of the Sea, vol. XVII (United Nations publication, Sales No. E.84.V.3), document A/CONF.62/122.

Affirming that, in accordance with the relevant articles of the Convention, all members of the international community have a duty to co-operate globally and regionally in the conservation and management of living resources on the high seas, and a duty to take, or to co-operate with others in taking, such measures for their nationals as may be necessary for the conservation of those resources,

Recalling that, in accordance with the relevant articles of the Convention, it is the responsibility of all members of the international community to ensure the conservation and management of living marine resources and the protection and preservation of the living marine environment within their exclusive economic zones,

Noting the serious concern, particularly among coastal States and States with fishing interests, that the overexploitation of living marine resources of the high seas adjacent to the exclusive economic zones of coastal States is likely to have an adverse impact on the same resources within such zones, and noting also, in this regard, the responsibility for co-operation in accordance with the relevant articles of the Convention,

Noting also that the countries of the South Pacific Forum and the South Pacific Commission, in recognition of the importance of living marine resources to the people of the South Pacific region, have called for a cessation of such fishing in the South Pacific and the implementation of effective management programmes,

Taking note of the adoption of the Tarawa Declaration on this subject by the Twentieth South Pacific Forum at Tarawa, Kiribati, on 11 July 1989 b/ and the adoption by South Pacific States and territories of the Convention on the Prohibition of Driftnet Fishing in the South Pacific, at Wellington on 24 November 1989, c/

Noting that some members of the international community have entered into co-operative enforcement and monitoring programmes for the immediate evaluation of the impact of large-scale pelagic driftnet fishing,

Recognizing that some members of the international community have taken steps to reduce their driftnet operations in some regions in response to regional concerns,

1. Calls upon all members of the international community, particularly those with fishing interests, to strengthen their co-operation in the conservation and management of living marine resources;

2. Calls upon all those involved in large-scale pelagic driftnet fishing to co-operate fully with the international community, and especially with coastal States and the relevant international and regional organizations, in the enhanced collection and sharing of statistically sound scientific data in order to continue

---

b/ See A/44/463, annex.

c/ See A/44/807.

to assess the impact of such fishing methods and to secure conservation of the world's living marine resources;

3. Recommends that all interested members of the international community, particularly within regional organizations, continue to consider and, no later than 30 June 1991, review the best available scientific data on the impact of large-scale pelagic driftnet fishing and agree upon further co-operative regulation and monitoring measures, as needed;

4. Also recommends that all members of the international community, bearing in mind the special role of regional organizations and regional and bilateral co-operation in the conservation and management of living marine resources as reflected in the relevant articles of the United Nations Convention on the Law of the Sea, agree to the following measures:

(a) Moratoria on all large-scale pelagic driftnet fishing on the high seas by 30 June 1992, with the understanding that such a measure will not be imposed in a region or, if implemented, can be lifted, should effective conservation and management measures be taken based upon statistically sound analysis to be jointly made by concerned parties of the international community with an interest in the fishery resources of the region, to prevent the unacceptable impact of such fishing practices on that region and to ensure the conservation of the living marine resources of that region;

(b) Immediate action to reduce progressively large-scale pelagic driftnet fishing activities in the South Pacific region leading to the cessation of such activities by 1 July 1991, as an interim measure, until appropriate conservation and management arrangements for South Pacific albacore tuna resources are entered into by the parties concerned;

(c) Immediate cessation of further expansion of large-scale pelagic driftnet fishing on the high seas of the North Pacific and all the other high seas outside the Pacific Ocean, with the understanding that this measure will be reviewed subject to the conditions in paragraph 4 (a) of the present resolution;

5. Encourages those coastal countries which have exclusive economic zones adjacent to the high seas to take appropriate measures and to co-operate in the collection and submission of scientific information on driftnet fishing in their own exclusive economic zones, taking into account the measures taken for the conservation of living marine resources of the high seas;

6. Requests specialized agencies, particularly the Food and Agriculture Organization of the United Nations, and other appropriate organs, organizations and programmes of the United Nations system, as well as the various regional and subregional fisheries organizations, urgently to study large-scale pelagic driftnet fishing and its impact on living marine resources and to report their views to the Secretary-General;

7. Requests the Secretary-General to bring the present resolution to the attention of all members of the international community, intergovernmental

organizations, non-governmental organizations in consultative status with the Economic and Social Council, and well-established scientific institutions with expertise in relation to living marine resources;

8. Requests the Secretary-General to submit to the General Assembly at its forty-fifth session a report on the implementation of the present resolution.

85th plenary meeting
22 December 1989